

PLANO CITY COUNCIL

WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M., MAY 9, 2005 AND PRELIMINARY OPEN MEETING IMMEDIATELY THEREAFTER, IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

Mission Statement: The mission of the City of Plano is to provide outstanding services and facilities, through cooperative efforts with our citizens, that contribute to the quality of life in our community.

EXECUTIVE SESSION

- | | | | |
|-----|---|-----------|---------|
| I. | Legal Advice | Wetherbee | 10 min |
| A. | Respond to questions and receive legal advice on agenda items | | |
| B. | Estrada vs. City of Plano | Gilliam | 10 min. |
| II. | Real Estate | Upchurch | 10 min. |
| | Acquisition of Land for Fire Station 12 | | |

PRELIMINARY OPEN MEETING

- | | | | |
|------|---|---------|---------|
| I. | Consideration and action resulting from executive session discussion | Council | 5 min. |
| II. | Public Access Channel Presentation | Beckley | 10 min. |
| III. | Council items for discussion/action on future agendas | Council | 5 min. |
| IV. | Consent and Regular Agenda | Council | 5 min. |
| V. | Council Reports | Council | 5 min. |
| A. | Council May Receive Information, discuss and provide direction on the following reports: | | |
| B. | Council may receive reports from its other members who serve as liaisons to boards, commissions, and committees | | |

CITY COUNCIL WILL RECESS AT 6:15 p.m. REGULAR MEETING WILL BEGIN AT 7:00 p.m.

In accordance with the provisions of the Open Meetings Act, during Preliminary Open Meetings, agenda items will be discussed and votes may be taken where appropriate.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.



CITY COUNCIL

1520 AVENUE K

DATE: May 9, 2005

CALL TO ORDER: 7:00 p.m.

INVOCATION: Dave Jobe, Sr. Pastor
Willow Bend Church

PLEDGE OF ALLEGIANCE: Girl Scout Troop 678
Hendrick Middle School and
Collin Creek Community Church

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>THE MISSION OF THE CITY OF PLANO IS TO PROVIDE OUTSTANDING SERVICES AND FACILITIES, THROUGH COOPERATIVE EFFORTS WITH OUR CITIZENS THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><u>PROCLAMATIONS AND SPECIAL RECOGNITION</u></p> <p>Presentation: Paul Standberry Scholarship to Helen Pavlik and Fnan Gelai</p> <p>Proclamation: Public Service Recognition Week – May 9 thru May 15, 2005</p> <p>Special Recognition: Employee of the Year – 2005</p> <p>Special Recognition: Plano Students Traveling to Hsin Chu City, Taiwan</p> <p>Special Recognition: Plano Senior Cup</p> <p>Proclamation: Building Safety Week – May 8 to May 14, 2005</p> <p>Proclamation: National Public Works Week</p> <p>Proclamation: Outdoor Air Quality Awareness Month – 2005</p> <p>Special Recognition: Winners of the Outdoor Air Quality Poster Contest</p> <p>Proclamation: National Nurses’ Week</p> <p>Proclamation: Neurofibromatosis Awareness Month – May, 2005</p> <p>Proclamation: American Legion Auxiliary Poppy Month</p> <p>Proclamation: National Historic Preservation Month</p> <p><u>OATHS OF OFFICE</u></p> <p><u>Cultural Affairs Commission</u> Christopher Griffith</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p><u>GENERAL DISCUSSION</u></p> <p>In accordance with the Open Meeting Act, the City Council will hear comments of public interest, but any discussion shall be limited to placing the item on a future agenda for further consideration.</p> <p>Remarks are limited to five (5) minutes per speaker, with a maximum of 30 total minutes of testimony. Other time restraints may be directed by the Mayor.</p> <p>Specific factual information or an explanation of current policy may be made in response to an inquiry; but any discussion or decision must be limited to a proposal to place the item on a future agenda. Speakers will be notified when speaking time has expired.</p> <p>CONSENT AGENDA</p> <p><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial.</u></p> <p><u>Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. The Council will then take action on the remainder of the Consent Agenda items. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p><u>Approval of Minutes</u></p> <p>April 25, 2005</p> <p><u>Approval of Expenditures</u></p> <p><u>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</u></p> <p>(b) Award of Bid for Bid No. 128-05 for curb and median repairs on the Repair of Major Thoroughfare Curb & Gutter, Monolithic Median Nose and Concrete and Brick Median Paving Construction Project to Jim Bowman Construction Co., LP in the amount of \$142,850.</p> <p>(c) Award of Bid for Bid No. B120-05 for the Park Erosion Control Structures – 2005 to Craig Olden, Inc. in the amount of \$496,900. The bid is for construction of gabion earth retention rock baskets and miscellaneous erosion control devices and the installation of additional parking spaces at High Point Tennis Center.</p> <p>(d) Award of Bid for Bid No. C143-05 for Athletic Field Marking to Line Pro Field Marking in the estimated annual amount of \$26,604 for an annual fixed-price contract with two optional one-year renewals.</p> <p><u>Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).</u></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(e)	<p>To authorize the purchase of three (3) Kromer Athletic Field Machines in the amount of \$42,540 from Kromer Co., LLC, through the Texas Building and Procurement Commission, Contract No. 805-N1, and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase.</p>	
	<p><u>Approval of Reimbursement of Oversize Participation</u></p>	
(f)	<p>To approve and authorize reimbursement to Plain Old Medical, LP for oversize participation for paving improvements in Marsh Lane associated with construction of Plano/544 Business Park Addition, in the amount of \$110,441.</p>	
	<p><u>Adoption of Resolutions</u></p>	
(g)	<p>To amend Resolution No. 2002-3-12(R) to increase the funding for the extension of fire sprinkler mains in historic structures located in the Plano Downtown Business District and providing an effective date.</p>	
(h)	<p>To approve the terms and conditions of a license agreement by and between the City of Plano and Dallas Area Rapid Transit to construct a ten (10) inch sanitary sewer line crossing the Cotton Belt Line at Plano Parkway; authorizing its execution by the City Manager; and providing an effective date.</p>	
(i)	<p>To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for a “Click It or Ticket” Project, to be conducted during Memorial Day Holiday period; authorizing the City Manager to execute any other documents necessary to effectuate the action taken; and providing an effective date.</p>	
	<p><u>Adoption of Ordinances</u></p>	
(j)	<p>To revise Section 2-376, Members, of Article XXII, Plano Transition and Revitalization Commission, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to revise reference to membership requirements and providing a repealer clause, a severability clause, and an effective date.</p>	
(k)	<p>To amend Section 12-101 (Prohibited on Certain Streets At All Times) of Article V (Stopping, Standing, and Parking), of Chapter 12 (Motor Vehicles and Traffic) of the City of Plano Code of Ordinances to prohibit stopping, standing, or parking of motor vehicles along both sides of Cloverhaven Way between Bright Star Way and Los Rios Boulevard and along the west side of Cloverhaven Way between Bright Star Way and a point eighty-five (85) feet north of Bright Star Way within the City limits of the City of Plano; declaring it unlawful and a Class C misdemeanor to stop, stand, or park motor vehicles in said sections of Cloverhaven Way within the limits herein defined; providing a fine for criminal penalties not to exceed \$200 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date.</p>	
	<p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p><u>The purpose of a Public Hearing is to receive input and information with the clarification that the focus of the City Council is on the singularly presented position, and not on repetition. To more effectively consider all presentations, applicants will limit their presentations to 15 minutes with a five (5) minute rebuttal time, if needed. All other speakers will be limited to a maximum of 30 total minutes of testimony, and three minutes per individual on any single issue. Other time restraints may be imposed at the discretion of the Mayor.</u></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(1)	<p>Public Hearing and an ordinance as requested in Zoning Case 2005-08 to amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading), Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, regarding storm water infrastructure improvements intended to improve storm water quantity and quality; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p>	
(2)	<p>Public Hearing and an ordinance as requested in Zoning Case 2005-09 – to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8± acres of land located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Neighborhood #12. Applicant: Montessori Children’s House</p>	
(3)	<p>Public Hearing and an ordinance of the City of Plano, Texas, amending the Subdivision Ordinance of the City of Plano, as heretofore amended, by amending Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design), by creating a new Subsection 5.1.d. (Alternative Public Facilities Design); renumbering existing subsections accordingly; and pertaining to related sections of the Subdivision Ordinance of the City of Plano, regarding storm water infrastructure improvements intended to improve storm water quantity and quality, and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p>	
(4)	<p>Public Hearing and consideration of an appeal of the Planning and Zoning Commission’s denial of Zoning Case 2005-05 – Request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Applicant: Greenway-Preston & Parker, Ltd. Zoned Agricultural. Neighborhood. #43. Tabled 04-25-05</p>	
(5)	<p>A Resolution to establish a retail incentive policy statement; establishing criteria for evaluating retail incentive applications; establishing procedural guidelines and criteria governing retail incentive agreements; and providing an effective date.</p>	
(6)	<p>Discussion and Direction on approaches to review and amend the Zoning Ordinance to appropriately regulate uses, including manufacturing, in the research technology and other zoning districts.</p>	
(7)	<p>Council discussion of Handbill Solicitation</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A is located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



Pat Evans
Mayor

Shep Stahel
Mayor Pro Tem

Ken Lambert
Deputy Mayor Pro Tem

Scott Johnson
Place 2

Phil Dyer
Place 3

Sally Magnuson
Place 4

Steve Stovall
Place 5

Jean Callison
Place 7

Thomas H. Muehlenbeck
City Manager

May 4, 2005

Mayor Pat Evans
City Council Members
City of Plano
Plano, TX 75074

Honorable Mayor and City Council:

We will begin our meeting Monday evening in Executive Session with legal advice and real estate.

The Preliminary Open meeting consists of a presentation by Dr. Susan Helt regarding the public access channel. The meeting will recess at 6:15 p.m. and reconvene into regular session at 7:00 p.m.

I look forward to seeing you Monday evening.

Sincerely yours,

Thomas H. Muehlenbeck
City Manager

THM/bn

Preliminary Open Meeting Item II.

Public Access Channel Presentation
Dr. Helt

POM IIa

**Discussion/Action Items for Future Council Agendas
(as of May 3, 2005)**

Additional rescheduling of Council meetings may be necessary due to elections and the PISD calendar. These changes will be made as soon as the dates are confirmed.

May 17 – Special Called Meeting to Canvass Election

May 18 – Law Enforcement Memorial – 7 p.m. - Haggard Park

May 19 – District 3 Roundtable – 7 p.m. – City Joint Use Facility – Building A

May 23

DART Status Report

Mobility Report

Comprehensive Monthly Financial Report

Discussion and Direction re Sign Enforcement Strategies

Legal advice regarding negotiations with Verizon for cable service

Public Hearing: Comprehensive Plan Revision - Urban Design Element - Request to amend the Urban Design Element of the Comprehensive Plan.

Applicant: City of Plano

Public Hearing: Zoning Case 2005-07 - Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations) of the Zoning Ordinance to clarify regulations for stoops, balconies, bay windows, and other projections into access easements and/or rights-of-way. **Applicant: City of Plano**

May 30 – Memorial Day Holiday

June 10 – 13 – TCMA - Galveston

June 13

Tree Program Update – Wendell, Burke-Brown

THA

June 27 – noon – 4:30 – Council and P&Z Retreat

June 27

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report
Thomas H. Muehlenbeck Recreation Center Update

July 4 – Independence Day Holiday

July 25

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

July 27

Budget

August 8

August 18 - District 4 Roundtable - 7. p.m. – Vines High School Cafeteria

August 22

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

September 5 – Labor Day Holiday

September 12

September 25 – 28 – ICMA - Minneapolis

September 26

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

October 3 – 7 – PISD Fall Break

October 10

A handwritten signature in black ink, appearing to be 'T. H. Muehlenbeck', is located in the bottom left corner of the page.

October 24

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

October 26 – 29 – TML – Gaylord Texan, Grapevine

November 10 – District 2 Roundtable – Plano Sports Authority – 2nd floor

November 14

November 24 – 25 – Thanksgiving Holidays

November 28 (Thanksgiving)

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

December 6 – 10 – NLC – Charlotte, NC

December 12

December 23 – 26 – Christmas/ Winter Holidays

December 28 (rescheduled from 12/26) (Winter Holiday)

DART Status Report
Mobility Report
Comprehensive Monthly Financial Report

January 2, 2006 – New Year Holiday

IIIc



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	4/15/05
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Presentation: Paul Standberry Scholarship to Helen Pavlik and Fnan Gelai				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO
COUNCIL AGENDA ITEM**

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<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05		Reviewed by Legal	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck		Executive Director	
Dept Signature:		City Manager	<i>JMM</i>	<i>5/9/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Public Service Recognition Week - May 9 thru 15, 2005				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
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COMMENTS:				
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List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



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Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	<i>4/5/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
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CAPTION				
Special Recognition: Employee of the Year - 2005				
FINANCIAL SUMMARY				
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FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
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Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
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FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



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Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>AMW</i>	<i>5/3/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
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CAPTION				
Recognition: Plano Students Traveling to Hsin Chu City, Taiwan				
FINANCIAL SUMMARY				
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Budget	0	0	0	0
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BALANCE	0	0	0	0
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Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>AW</i>	<i>5/3/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Special Recognition: Plano Senior Cup				
FINANCIAL SUMMARY				
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Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	<i>3/8/05</i>
Agenda Coordinator (include phone #):		Sharon Wright ext. 7107		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Building Safety Week - May 8 to May 14, 2005				
FINANCIAL SUMMARY				
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CITY OF PLANO COUNCIL AGENDA ITEM

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Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>Tom</i>	4/5/05
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CAPTION				
Proclamation: National Public Works Week				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
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Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	<i>5/13/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Outdoor Air Quality Awareness Month - 2005				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>JM</i>	<i>5/9/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Special Recognition: Winners of the Outdoor Air Quality Poster Contest				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date	
Department Head	Tom Muehlenbeck		Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	5/13/05	
Agenda Coordinator (include phone #): Sharon Wright ext. 7107					

ACTION REQUESTED: ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

Proclamation: National Nurses' Week

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s):

COMMENTS:

SUMMARY OF ITEM

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>TM</i>	<i>5/5/05</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: Neurofibromatosis Awareness Month - May, 2005				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>SM</i>	<i>5/9/05</i>
Agenda Coordinator (include phone #):		Sharon Wright ext. 7107		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: American Legion Auxiliary Poppy Month				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:		5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office			Initials	Date
Department Head	Tom Muehlenbeck		Executive Director		
Dept Signature:			City Manager	<i>[Signature]</i>	<i>5/9/05</i>
Agenda Coordinator (include phone #):			Sharon Wright ext. 7107		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER					
CAPTION					
Proclamation: National Historic Preservation Month					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	0	0	0	0	
Encumbered/Expended Amount	0	0	0	0	
This Item	0	0	0	0	
BALANCE	0	0	0	0	
FUND(s):					
COMMENTS:					
SUMMARY OF ITEM					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
April 25, 2005**

COUNCIL MEMBERS

Pat Evans, Mayor
Shep Stahel, Mayor Pro Tem
Ken Lambert, Deputy Mayor Pro Tem
Scott Johnson
Phil Dyer
Sally Magnuson
Steve Stovall
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
Elaine Bealke, City Secretary

Mayor Evans called the meeting to order at 5:05 p.m., Monday, April 25, 2005, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Evans then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071 for which a certified agenda is not required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 5:55 p.m. in the Council Chambers. Council Member Callison assumed her seat at 5:59 p.m. The following matters were discussed:

Consideration and Action Resulting From Executive Session Discussion

No items were brought forward.

DART Status Report

No report was presented.

Mobility Report

Transportation Engineering Manager Neal spoke to the completion of new traffic signal controllers in Zone 1 which is north of Legacy Drive and west of Preston Road and to continuation on into the next zone and further spoke to traffic signal construction at Ohio Drive and McDermott Road. He spoke to participation in the National Traffic Signal Operation Evaluation, reviewed traffic signal timing variances in the Metroplex, and stated that the evaluation was a self-evaluation by each city.

Discussion and Direction Regarding Environmental Education Building

Environmental Waste Services Manager Nevil spoke to the mission statement of the Environmental Discovery Center to demonstrate, educate and involve Plano residents and interested organizations at the Parkway Service Center Complex location. She stated that the funding request is \$1.3 million which will include parking, an education building, restrooms, and outdoor water fountain. Ms. Nevil spoke to the historical background, site renovation implementation, and needed improvements. She spoke to dilemmas being the need for programming, a lack of onsite storage space, no adequate parking or protected entry, a lack of restrooms, and there being no available drinking water for visitors. Ms. Nevil spoke to special event attendance, new educational programs and community outreach, a planned sustainable design green building, and to planned expansions. She advised the Council that the \$1.3 million in funding requested can be obtained from the combined funds of Environmental Waste Services, Municipal Drainage Utility, and Water and Sewer and further asked that the Council approve this request.

Ms. Nevil responded to the Council that the site chosen meets the needs of the program, a wrought iron fence will be installed to insure safety from the roadways, and further responded to possibly looking at a reconfiguration of the parking area. She further responded to the Council that there will be no new employees and City Manager Muehlenbeck advised that the operating cost for the first year will be approximately \$15,000 - \$16,000. Ms. Nevil stated that civic and citizen groups may use the facility for meeting rooms. The Council concurred to move forward with the request.

Comprehensive Monthly Financial Report

Director of Finance McGrane presented the Comprehensive Monthly Finance Report for the month of March and advised that the General Fund was slightly behind from last year and that sales tax is up. He spoke to sales tax comparisons, portfolio diversification and stated that single-family housing starts were up.

Personnel Appointment: Cultural Affairs Commission

Upon a motion made by Council Member Callison and seconded by Council Member Magnuson the Council voted 8-0 to appoint Christopher Griffith.

Discussion and Direction Regarding Research Technology District: Lost Economic Development Opportunities Resulting from Lack of General Manufacturing Category: Additional Business Opportunities as a Result of Increasing Dock Door Requirements

Plano Economic Development Board Executive Director Sally Bane spoke to the Research & Technology Crossroads (R/T) and to construction of approximately 2.25 million square feet of space in the 5.2 million square feet of R/T space. She spoke to the existing vacancy rate, rental rates, and to companies that have located there. Ms. Bane spoke to quantifying lost opportunities being difficult, manufacturing project leads received from the state, and further spoke to R/T zoning stipulations.

Ms. Bane stated that Tom O'Dwyer (Argent Properties) asked her to communicate to the Council that in a prospective tenant's view, the current R/T regulations present obstacles to companies regarding timelines required and monies spent during a more lengthy process. She communicated that it would be helpful to provide manufacturing as a use in the R/T and along with this a definition of what type of manufacturing would be allowed.

Scott Jessen, representing the Morse Company, spoke to attracting quality users primarily from the high tech industry, giving consideration to other market alternatives, and stated that the restrictive zoning of the R/T offers little flexibility. He spoke to current low interest rates, the stimulus of nearby businesses, and stated that solutions might include reducing the size of the R/T District. Mr. Jessen spoke to influencing development, using healthcare uses in applicable locations, adding additional roadways where needed, consideration of certain zoning changes, and looking at transient oriented development. Mayor Evans spoke to beginning to think about extending rail lines, in particular east to west, taking the Cottonbelt line to the east and further spoke to the R/T District as an appropriate location for a rail station.

Council Member Stovall spoke to previous discussions regarding finding classes of manufacturing uses that would not require a specific use permit and stated that this use does exist and recommended expanding this type of category. Director of Planning Jarrell spoke to difficulties in knowing where to draw the line in determining what the manufacturing use should be, and spoke to preventing non-desirable uses. She stated that the difficulty is in classifying the use. Council Member Stovall spoke to containment (chemicals, etc.) as being what should be sought after.

Mayor Evans spoke to looking at the big picture now instead and to things possibly being too restrictive with the changing world. She recommended that a strategic task force be used with representation of two members each from the City Council, Economic Development Board, and Chamber of Commerce, and knowledgeable citizens to see what is out there and how to position for the future. She stated that after a study is done this can be looked at again.

Mayor Pro Tem Stahel recommended that the big picture be the initial focus. Mayor Evans asked that recommendations for the task force be communicated to her over the next week. Mr. Stahel spoke to not rushing into things, and to not limiting the study to just the R/T but to all commercial zoning districts in the City. Mayor Evans spoke to beginning discussions with the R/T as the initial focus. Mr. Jessen spoke to reducing the number of options that clients must work through to a smaller number when looking for this type space.

Council Items for Discussion/Action on Future Agendas

No items were brought forward.

Consent Agenda

Deputy Mayor Pro Tem Lambert requested that Consent Item "P," ordinance to abandon a right of way, be removed for individual consideration.

Mayor Pro Tem Stahel and Council Member Stovall advised that due to possible conflicts of interest they will be stepping down on Consent Item "C," a purchase from an existing contract from Microsoft Consulting Services; Item "D," a purchase from an existing contract from Internetwork Experts; Item "F," a purchase from an existing contract from Live Scan System; and Item G," a purchase from an existing contract from W. Henkels & McCoy.

Council Member Dyer advised that due to a possible conflict of interest he will be stepping down from Consent Item "J," a change order for Medical Center of Plano. Mr. Dyer further advised that due to possible conflicts of interest he will be stepping down from a portion of Regular Item "4," a resolution regarding providing Community Development Block Grant Funds; and further from Regular Item "11," Public Hearing and appeal regarding Zoning Case 2005-05.

Council Reports

Council Member Magnuson stated that she attended the Blackland Prairie Festival and spoke to the success of the event. Mayor Pro Tem Stahel stated that the attendance was most likely double.

Mayor Pro Tem Stahel advised that he presented a proclamation to the Medical Center of Plano celebrating National Laboratory Technicians Week. He further stated that he delivered a proclamation to the annual awards banquet for Trinity Waste Company.

Mayor Evans stated that an invitation as been extended to the Council from the Frisco City Council to attend the Frisco Roughriders/Midland Rockhounds game on May 21.

Nothing further was discussed during the Preliminary Meeting. Remaining items were discussed during the Regular Meeting. No recess was taken and Mayor Evans convened directly into the Regular Meeting at 7:15 p.m.

Pat Evans, **MAYOR**

ATTEST:

Elaine Bealke, City Secretary

PLANO CITY COUNCIL
April 25, 2005

COUNCIL MEMBERS

Pat Evans, Mayor
Shep Stahel, Mayor Pro Tem
Ken Lambert, Deputy Mayor Pro Tem
Steve Stovall
Phil Dyer
Scott Johnson
Sally Magnuson
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Executive Director
Bruce Glasscock, Executive Director
Rod Hogan, Executive Director
Diane C. Wetherbee, City Attorney
John Gilliam, First Assistant City Attorney
Elaine Bealke, City Secretary

Mayor Evans convened the Preliminary Open Meeting directly into the Regular Session on Monday, April 25, 2005, at 7:15 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Barry Gin of the Plano Chinese Alliance Church.

The Pledge of Allegiance was led by Cub Scout Pack 252 of Faith Lutheran School of Plano.

Nancy Hogge, citizen of the City, made a special presentation to Council Members Stovall and Dyer. Mayor Evans recognized Jasper High School Students who were Academic WorldQuest Participants and read proclamations for Asian Heritage Week – 2005, National Wildflower Week and Motorcycle Safety and Awareness Month – May, 2005.

Mayor Evans administered an oath of office to North Texas Municipal Water District Board member Jerry E. Yancey.

The Council resumed discussion of the Preliminary Open Meeting Agenda.

Discussion and Direction Regarding Membership of the Plano Transition and Revitalization Commission

Council Member Johnson spoke to the difficulty experienced in locating someone to serve on the board who has City of Plano Planning and Zoning Commission experience. He stated concern that the committee is operating short handed and requested amendment to this requirement. Council Member Callison spoke to one of the current members, who fulfills another requirement, also having Planning and Zoning Commission experience, but stated that as written, the ordinance requires two individuals.

Mayor Pro Tem Stahel spoke to changing the word "shall" to "may" to allow flexibility in the appointment of someone from the Chamber of Commerce, Economic Development Board and Community Relations Commission in addition to the Planning and Zoning Commission. He spoke to the formation of the committee and the need for various skills at that time. Mayor Evans spoke to including verbiage that these positions are recommended and provide a valuable background. Deputy Mayor Pro Tem Lambert spoke to considering those with past experience on the Chamber of Commerce, Economic Development Board and Community Relations Commission rather than current members. The Council concurred in directing Staff to make revisions to the ordinance and bringing it back for consideration.

Upon a motion made by Council Member Johnson, and seconded by Council Member Callison, the Council voted 8-0 to appoint Tino Trujillo as a member of the Plano Transition and Revitalization Commission subject to the ordinance changes.

GENERAL DISCUSSION

Jack Lagos, citizen of the City, requested a town hall session be held prior to the May 5, 2005 Arts of Collin County meeting to allow for an open discussion. He stated that reports of 118 acres having been donated are false and spoke to monies spent on architectural rendering. Mr. Lagos spoke to the commercial developer wanting over twelve acres imbedded in the public facility to build a hotel/restaurant and other commercial development and questioned who will receive the sales tax. He spoke regarding the City's projected share of operating and maintenance costs and informational material left in the Council Chambers.

Ida Gephart, citizen of the City, apologized for leaving promotional materials in the chambers and spoke in support of the arts in Plano and the opportunity for the arts hall even though it is outside of the City.

Maryanne Ferrari, citizen of the City, requested consideration at a future meeting of issues related to the employment of illegal aliens in the City and requested information regarding the success rate in locating them and turning them over to the Immigration and Naturalization Service. City Attorney Wetherbee recommended Ms. Ferrari contact Police Chief Rushin regarding enforcement efforts and stated that many of the issues being raised are federal.

CONSENT AGENDA

Upon the request of Council Member Dyer, Consent Agenda Item “J” was removed for individual consideration due to a possible conflict of interest.

Upon the request of Mayor Pro Tem Stahel and Council Member Stovall, Consent Agenda Items “C,” “D,” “F” and “G” were removed for individual consideration due to possible conflicts of interest.

Upon the request of Deputy Mayor Pro Tem Lambert, Consent Agenda Item “P” was removed for individual consideration.

Mayor Evans and Council Member Dyer advised that they would be stepping down on portions of Regular Agenda Item “4” due to possible conflicts of interest.

Council Member Dyer advised that he would be stepping down on Regular Agenda Item “11” due to a possible conflict of interest.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Mayor Pro Tem Stahel, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes [Consent Agenda Item (A)]

April 11, 2005

Approval of Expenditures

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To authorize the purchase of rental/lease of a DM 1000 digital mail system and ascent shipping system from 06/01/05 to 05/31/09 in the amount of \$56,364 from Pitney Bowes through a State of Texas contract, and authorizing the City Manager to execute all necessary documents. (State Contract 985-A4 and 985-A2) [Consent Agenda Item (B)]

To authorize purchase from existing contract of material testing services for Plano Parkway Extension (Los Rios Boulevard to 14th Street) in the amount of \$49,904 from Terracon Consultants, Inc. dba HBC/Terracon through a City of Plano contract, and authorizing the City Manager to execute all necessary documents. (Contract No. D021-05). [Consent Agenda Item (E)]

Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)

To approve the terms and conditions of an engineering services contract by and between the City and Doyle Engineering Group, PLLC in the amount of \$106,370 for Erosion Control – Briarwood and authorizing the City Manager to execute all necessary documents. This agreement is for engineering design for the installation of erosion control measures in creek areas behind the following addresses: Woodpark Townhomes (2932 Tisinger Place), 3200 Rockbrook Drive, 3500 Rockbrook Drive, 1913 Briarcreek Lane, 2201 East 18th Street, Sewer Erosion Control – 2920 Newport Circle/1528 Idyllwild Drive. [Consent Agenda Item (H)]

To approve the terms and conditions of an engineering services contract by and between the City and Parsons Transportation Group, Inc. in the amount of \$60,857 for Preston at Legacy Intersection Improvements (TxDOT) and authorizing the City Manager to execute all necessary documents (B113-04). [Consent Agenda Item (I)]

Adoption of Resolutions

Resolution No. 2005-4-19(R): To approve and authorize refunds of property tax overpayments; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2005-4-20(R): To approve the terms and conditions of an agreement by and between the City of Plano and Kansas City Southern Railway Company for grade crossing signal rehabilitation at Ohio Drive in the City of Plano, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2005-4-21(R): To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Huffines Plano Properties, L.P., for the sale of 1.913 acres of land located at the northwest corner of Plano Parkway and Coit Road in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (M)]

Adoption of Ordinances

Ordinance No. 2005-4-22: To amend Chapter 12, Motor Vehicles and Traffic, Article IV, Speed, Section 12-74(b) of the City of Plano Code of Ordinances to add a new Subsection “Premier Drive” that establishes the prima facie speed limit for motor vehicles operating along a portion of Premier Drive within the corporate limits of the City of Plano; authorizing and directing the Traffic Engineer to cause placement of traffic control devices indicating the speed limit; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a penalty clause and an effective date. [Consent Agenda Item (N)]

Ordinance No. 2005-4-23: To amend Chapter 12, Motor Vehicles and Traffic, Article IV, Speed, Section 12-74(b), Subsection “Chase Oaks Boulevard” of the City of Plano Code of Ordinances, that establishes the prima facie speed limit for motor vehicles operating along Chase Oaks Boulevard within the corporate limits of the City of Plano; authorizing and directing the traffic engineer to cause placement of traffic control devices indicating the speed limit; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a penalty clause and an effective date. [Consent Agenda Item (O)]

Ordinance No. 2005-4-24: To revise Section 16-107(c), Ex Officio Members, of Article VI, Heritage Resource Preservation, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas to revise reference to ex officio members and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (Q)]

Ordinance No. 2005-4-25: To revise Section 2-337, Terms; Vacancies, of Article XIX, Animal Shelter Advisory Committee, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to remove reference to the number of terms that may expire in any one year; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (R)]

Ordinance No. 2005-4-26: To revise Section 2-302, Terms of Office; Meetings; Compensation, of Article XVI, Self Sufficiency Committee, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to remove reference to the number of terms that may expire in any one year and to change the expiration date for terms of office from June 30 to October 31 of each year; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (S)]

Ordinance No. 2005-4-27: To revise Section 2-157, Terms of Office; Compensation, of Article VII, Community Relations Commission, of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas to remove reference to the number of terms that may expire in any one year and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (T)]

Ordinance No. 2005-4-28: To revise Section 15-26, Terms of Office of Members of Article II, Parks and Recreation Planning Board, of Chapter 15 of the Code of Ordinances of the City of Plano, Texas to change the expiration date for terms of office from September 30 to October 31 of each year; and providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (U)]

END OF CONSENT

Due to possible conflicts of interest, Mayor Pro Tem Stahel and Council Member Stovall stepped down from the bench on the following four items which were considered concurrently.

Approval of Purchase from Existing Contract/Agreement: To authorize the purchase of planning and design services in the amount of \$40,000 from Microsoft Consulting Services through the Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR#: DIR-BUSOP-180) [Consent Agenda Item (C)]

Approval of Purchase from Existing Contract/Agreement: To authorize the purchase of network infrastructure equipment in the amount of \$48,039 from Internetwork Experts through the Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR#: DIR-BUSOP-012) [Consent Agenda Item (D)]

Approval of Purchase from Existing Contract/Agreement: To authorize the purchase of Live Scan System in the amount of \$32,010 through a Collin County Purchasing Department contract, and authorizing the City Manager to execute all necessary documents (08117-04). [Consent Agenda Item (F)]

Approval of Purchase from Existing Contract/Agreement: To authorize purchase from existing contract to authorize the purchase of cabling and equipment for the W.O. Haggard Library Expansion in the amount of \$39,249 from Henkels & McCoy through a City of Plano contract, and authorizing the City Manager to execute all necessary documents (Contract No. C114-04) [Consent Agenda Item (G)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Dyer, the Council voted 6-0 to authorize the purchase of planning and design services in the amount of \$40,000 from Microsoft Consulting Services through the Department of Information Resources (DIR) Contract; authorize the purchase of network infrastructure equipment in the amount of \$48,039 from Internetwork Experts through the Department of Information Resources (DIR) Contract, authorize the purchase of Live Scan System in the amount of \$32,010 through a Collin County Purchasing Department contract; and authorize the purchase from existing contract to authorize the purchase of cabling and equipment for the W.O. Haggard Library Expansion in the amount of \$39,249 from Henkels & McCoy through a City of Plano contract.

Mayor Pro Tem Stahel and Council Member Stovall resumed their places on the bench.

Due to possible conflicts of interest, Council Member Dyer stepped down from the bench on the following item.

Approval of Change Order: - To Medical Center of Plano, increasing the contract by \$25,840 for the City of Plano Wellness Program, Change Order #1 (C006-03). [Consent Agenda Item (J)]

A motion was made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Johnson, to approve a change order to Medical Center of Plano, increasing the contract by \$25,840 for the City of Plano Wellness Program. The Council voted 6-1 with Mayor Pro Tem Stahel voting in opposition. The motion carried.

Council Member Dyer resumed his place on the bench.

Ordinance No. 2005-4-29: To abandon all right, title and interest of the City, in and to a portion of that certain variable width right-of-way called Spring Creek Parkway from Preston Road west approximately 1,476 feet, being situated in the Robert Benefield Survey, Abstract No. 99, which is located in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the city in a portion of such right-of-way to the abutting property owner, LSM Land Partners, L.P., to the extent of its interest; authorizing the City Manager, to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (P)]

Director of Planning Jarrell responded to Deputy Mayor Pro Tem Lambert, stating that the Transportation Thoroughfare Plan denoting the removal of overpasses and including text addressing the potential for releasing right of way or keeping it is not yet available on the web, but should be later this week or next. City Engineer Upchurch responded to Deputy Mayor Pro Tem Lambert, stating that the standard right of way is being retained on Spring Creek Parkway with some addition on Preston Road. Mr. Upchurch advised that in cases where abutting property owners have dedicated right-of-way at no cost to the City, it has been the Council's practice to abandon it back at no cost when it is determined that it is no longer needed. He responded to Council Member Stovall that continuous flow intersections will fit within the standard right-of-way.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall, the Council voted 8-0 to abandon all right, title and interest of the City, in and to a portion of that certain variable width right-of-way called Spring Creek Parkway from Preston Road west approximately 1,476 feet, being situated in the Robert Benefield Survey, Abstract No. 99, which is located in the City Limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the city in a portion of such right-of-way to the abutting property owner, LSM Land Partners, L.P., to the extent of its interest; authorizing the City Manager, to execute any documents deemed necessary; and providing an effective date; and further to adopt Ordinance No. 2005-4-29.

Public hearing and approval of disbursement of grant funds in the total amount of \$103,828 awarded through the Byrne Justice Assistance Grant Project for the purpose of purchasing equipment resources, pursuant to the amendments made by Section 201 of H.R. 3036 of the 108th Congress, as passed by the House of Representatives on March 30, 2004. Under this Grant, the City of Plano will be the fiscal agent and will disburse funds to the City of McKinney and the Collin County Sheriff's Office as agreed upon in the Memorandum of Understanding signed by the three entities. [Regular Agenda Item (1)]

Chief Rushin advised the Council regarding the purpose areas in which the funds can be expended, spoke to the need to disburse funds amongst the Plano Police Department, McKinney Police Department and Collin County Sheriff's Office and stated that the intention is to spend the funds on seven radar guns and upgrading of the jail facility with digital video recording. He responded to Council Member Stovall regarding equipment to be purchased by Collin County and advised that it is required that the funds be shared among the entities.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Stovall and seconded by Council Member Johnson, the Council voted 8-0 to disburse grant funds in the total amount of \$103,828 awarded through the Byrne Justice Assistance Grant Project for the purpose of purchasing equipment resources, pursuant to the amendments made by Section 201 of H.R. 3036 of the 108th Congress, as passed by the House of Representatives on March 30, 2004.

Public Hearing and adoption of Resolution No. 2005-4-30(R) to adopt the 2005-2006 Action Plan, including the final statement of Community Development Block Grant and HOME Program Objectives and proposed use of funds for Program Year 2005-2006; and declaring an effective date. [Regular Agenda Item (2)]

Neighborhood Services Manager Buffington responded to Mayor Pro Tem Stahel regarding funding to provide academic and social counseling, stating that up until two years ago this function was paid for by the Plano Independent School District (PISD) who then became unable to fund it. He advised that the agency approached the City and that these are non-profit funds and not for PISD employees. Mr. Buffington spoke regarding the funding requested for the Samaritan Inn and stated that the pilot project recently approved is contingent on obtaining another grant and that it addresses the chronic homeless which is a different group of people than those in this request. Community Relations Commission Chair Stephenson advised that the Family Literacy Program does not involve a PISD salary, but is rather a non-profit position.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Resolution No. 2005-4-30(R) (cont'd)

Upon a motion made by Council Member Stovall and seconded by Council Member Magnuson, the Council voted 8-0 to adopt the 2005-2006 Action Plan, including the final statement of Community Development Block Grant and HOME Program Objectives and proposed use of funds for Program Year 2005-2006; and declaring an effective date; and further to adopt Resolution No. 2005-4-30(R).

Resolution No. 2005-4-31(R) to authorize the filing of applications for federal funds in an amount not to exceed \$1,938,431 under the Housing and Community Development Act, the Home Investment Partnership Act, and the American Dream Downpayment Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date. [Regular Agenda Item (3)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Dyer, the Council voted 8-0 to authorize the filing of applications for federal funds in an amount not to exceed \$1,938,431 under the Housing and Community Development Act, the Home Investment Partnership Act, and the American Dream Downpayment Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date; and further to adopt Resolution No. 2005-4-31(R).

Resolution No. 2005-4-32(R) to approve the terms and conditions of agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant Funds in the amount of \$540,727 and HOME Funds in the amount of \$261,254 for the provision of various community services; authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (4)]

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Dyer, the Council voted 8-0 to approve the terms and conditions of agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant Funds in the amount of \$540,727 and HOME Funds in the amount of \$261,254 for the provision of various community services; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-4-32(R) with the exception of Hope's Door and Christ United Methodist Church.

Council Member Dyer stepped away from the bench due to a possible conflict of interest

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Stovall, the Council voted 7-0 to approve funding for Hope's Door.

Council Member Dyer resumed his place on the bench

Mayor Evans stepped away from the bench due to a possible conflict of interest.

Upon a motion made by Deputy Mayor Pro Tem Lambert and seconded by Council Member Callison, the Council voted 7-0 to approve funding for Christ United Methodist Church.

Mayor Evans resumed her place on the bench.

Public Hearing and adoption of Ordinance No. 2005-4-33 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 86 for a tax abatement consisting of an 8.833 acre tract of land located at 1001 Klein Road in the City of Plano, Texas, establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date. [Regular Agenda Item (5)]

Director of Finance McGrane advised the Council that the proposed business personal property and real property tax abatement will begin January 1, 2006 and continue through the year of 2015 and will be equal to fifty percent for ten years. He stated that the company anticipates having 35 full time jobs upon occupancy.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Dyer and seconded by Council Member Stovall, the Council voted 7-0 to establish and designate a certain area within the City of Plano as Reinvestment Zone No. 86 for a tax abatement consisting of an 8.833 acre tract of land located at 1001 Klein Road in the City of Plano, Texas, establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date; and further to adopt Ordinance No. 2005-4-33.

Resolution No. 2005-4-34(R) to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, Argent Plano Realty LP, a Texas Limited Partnership and Creation Technologies Texas LP, a Texas Limited Partnership, and providing for a business personal property and real property tax abatement, located at 1001 Klein Road, Plano, Texas, and authorizing its execution by the City Manager; and providing an effective date. [Regular Agenda Item (6)]

Director of Finance McGrane advised that Creation Technologies Texas LP is an assembly business.

Resolution No. 2005-4-34(R) (cont'd)

Upon a motion made by Council Member Stovall and seconded by Council Member Callison, the Council voted 8-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, Argent Plano Realty LP, a Texas Limited Partnership and Creation Technologies Texas LP, a Texas Limited Partnership, and providing for a business personal property and real property tax abatement, located at 1001 Klein Road, Plano, Texas, and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-4-34(R).

Public Hearing by the City Council of the City of Plano, Texas, pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of City of Plano Park and known as Shawnee Park for an access easement to Plano Independent School District (PISD) and a drainage easement. [Regular Agenda Item (7)]

City Engineer Upchurch advised that this item represents a request from the Plano Independent School District (PISD) for a fire lane access and drainage easement off a portion of Shawnee Park. He spoke to the school's plans to relocate parking and provide access and advised that Staff has reviewed the plan and believes there is no feasible and prudent alternative to the use or taking of the park land as proposed by the project and that the project includes all reasonable planning to minimize harm to the park land resulting from the use or taking. He stated that the Parks and Recreation Planning Board recommended approval.

Mr. Upchurch responded to Mayor Pro Tem Stahel regarding the possible need for a traffic signal stating that these are typically warranted on an eight-hour day and that school peak time is only for two hours a day. He advised that Staff will evaluation the situation.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Ordinance No. 2005-4-35 to approve the use or taking of a portion of City of Plano Public Park Land, known as Shawnee Park for an access easement to PISD and a drainage easement; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date. [Regular Agenda Item (8)]

Upon a motion made by Council Member Dyer, and seconded by Deputy Mayor Pro Tem Lambert, the Council voted 8-0 to approve the use or taking of a portion of City of Plano Public Park Land, known as Shawnee Park for an access easement to PISD and a drainage easement; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park resulting from the use; and providing an effective date; and further to adopt Ordinance No. 2005-4-35.

Resolution No. 2005-4-36(R) to grant the use or taking of a portion of Shawnee Park for an access easement to PISD and a drainage easement being in the Daniel Rowlett Survey, Abstract No. 738 City of Plano, Collin County and authorizing the approval by the City Manager; and providing an effective date. [Regular Agenda Item (9)]

Upon a motion made by Council Member Stovall and seconded by Council Member Magnuson, the Council voted 8-0 to grant the use or taking of a portion of Shawnee Park for an access easement to PISD and a drainage easement being in the Daniel Rowlett Survey, Abstract No. 738 City of Plano, Collin County and authorizing the approval by the City Manager; and providing an effective date; and further to adopt Resolution No. 2005-4-36(R).

Public Hearing and adoption of Ordinance No. 2005-4-37 to vacate Ordinance No. 2005-2-27, thereby rescinding the zoning designation of Planned Development-Single-Family Residence-6 granted therein, and adopting this ordinance to correct a clerical error; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 33.0± acres located on the north side of Windhaven Parkway, 2,900± feet east of Dallas North Tollway and 3,300± feet west of Spring Creek Parkway in the City of Plano, Collin County, Texas, from Multifamily Residence-3 (17.7± acres), Planned Development-242-Multifamily Residence-2 (13.1± acres) and Planned Development-243-Retail/General Office (2.2± acres) to Planned Development-154-Single-Family Residence-6; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause; a severability clause, and an effective date. Zoning Case 2004-58 [Regular Agenda Item (10)]

Director of Planning Jarrell advised the Council that this item corrects a clerical error in assigning a planned development number to the Planned Development-Single-Family Residence-6 zoning granted.

Mayor Evans opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Stovall and seconded by Council Member Dyer, the Council voted 8-0 to vacate Ordinance No. 2005-2-27, thereby rescinding the zoning designation of Planned Development-Single-Family Residence-6 granted therein, and adopting this ordinance to correct a clerical error; amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 33.0± acres located on the north side of Windhaven Parkway, 2,900± feet east of Dallas North Tollway and 3,300± feet west of Spring Creek Parkway in the City of Plano, Collin County, Texas, from Multifamily Residence-3 (17.7± acres), Planned Development-242-Multifamily Residence-2 (13.1± acres) and Planned Development-243-Retail/General Office (2.2± acres) to Planned Development-154-Single-Family Residence-6; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause; a severability clause, and an effective date; and further to adopt Ordinance No. 2005-4-37.

Due to a possible conflict of interest, Council Member Dyer stepped down from the bench on the following item and did not return to the bench.

Public Hearing and consideration of an appeal of the Planning and Zoning Commission's denial of Zoning Case 2005-05 – Request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Zoned Agricultural. Neighborhood. #43. [Regular Agenda Item (11)]

Director of Planning Jarrell advised the Council that the applicant has requested that the item be tabled for two weeks

Upon a motion made by Council Member Stovall and seconded by Council Member Magnuson, the Council voted 7-0 to table consideration of an appeal of the Planning and Zoning Commission's denial of Zoning Case 2005-05 for two weeks.

There being no further discussion, Mayor Evans adjourned the meeting at 8:40 p.m.

Pat Evans, MAYOR

ATTEST:

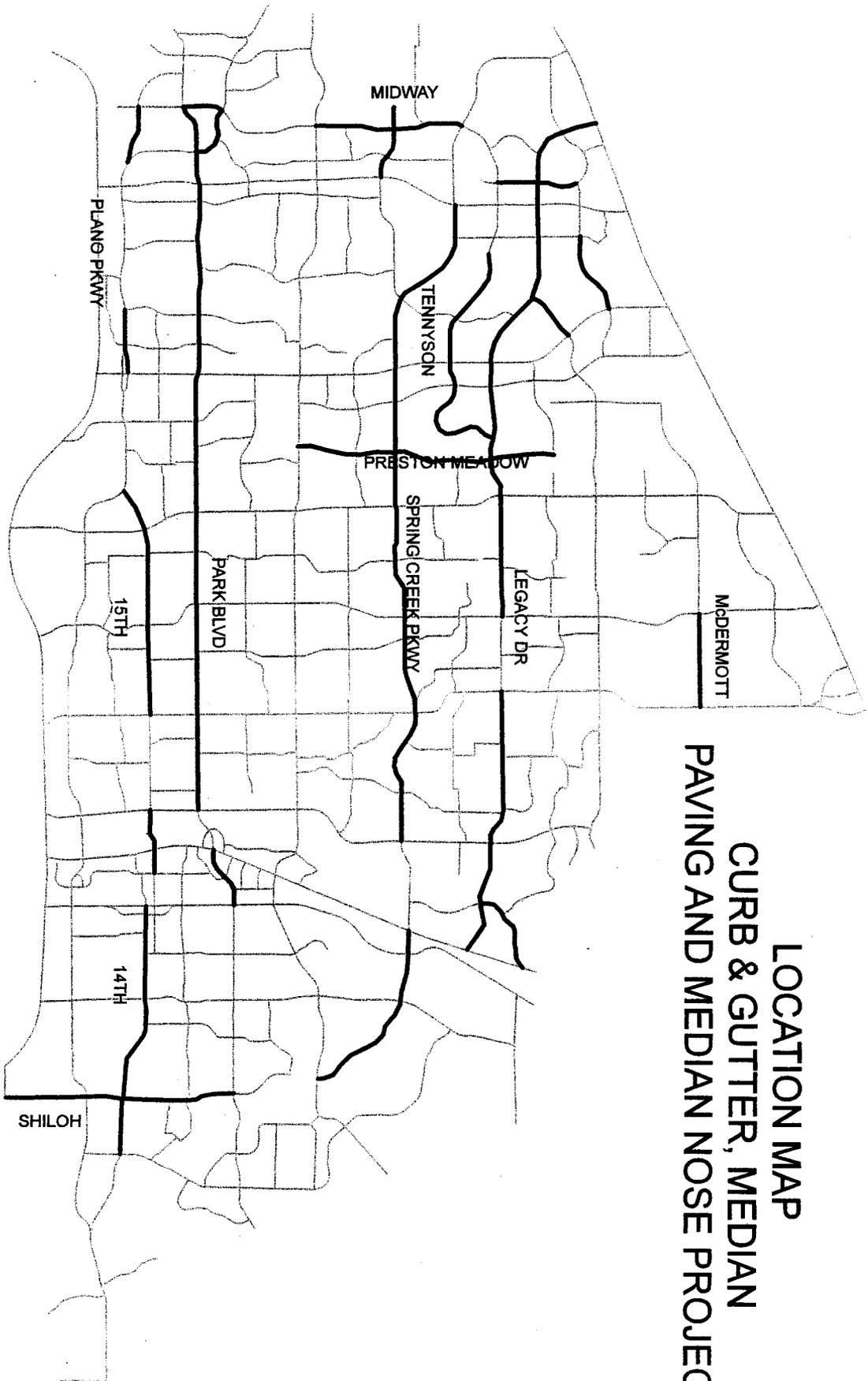
Elaine Bealke, City Secretary



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Public Works / Mike Rapplean <i>MR</i>	Initials	Date	
Department Head	Jimmy Foster	Executive Director	<i>[Signature]</i>	4-27-05
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	4/28/05
Agenda Coordinator (include phone #): Margie Stephens (X4104)				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
<i>Award, Rejection of Bids/Proposals for Bid No. B128-05 for curb and median repairs on the Repair of Major Thoroughfare Curb & Gutter, Monolithic Median Nose and Concrete and Brick Median Paving Construction Project to Jim Bowman Construction in the amount of \$142,850.</i>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2004-05	Prior Year (CIP Only)	Current Year	Future Years
Budget		38,698	236,302	100,000
Encumbered/Expended Amount		-38,698	-131	0
This Item		0	-142,850	0
BALANCE		0	93,321	100,000
FUND(S): CAPITAL RESERVE				
COMMENTS: Funds are included in the 2004-05 Capital Reserve. This item, in the amount of \$142,850, will leave a current year balance of \$93,321 for the Curb Median Repair project.				
STRATEGIC PLAN GOAL: Curb & Gutter repairs relate to the City's Goal of Safe and Efficient Travel.				
SUMMARY OF ITEM				
Staff recommends bid of Jim Bowman Construction Co., LP in the amount of \$142,850.00 be accepted as the lowest responsible bid for the project conditioned upon timely execution of all necessary documents.				
This project will involve the repair of curb and gutter, monolithic median nose construction and brick & concrete median paving repair along all major thoroughfares in the City.				
No other bidder is recommended on this bid.				
Engineer's estimate for this project was \$90,000.00.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Bid Tabulation				
Location Map				

**LOCATION MAP
CURB & GUTTER, MEDIAN
PAVING AND MEDIAN NOSE PROJECT**



b-2

**CITY OF PLANO
BID TABULATION
B128-05**

**2005 REPAIR OF MAJOR THOROUGHFARE CURB AND GUTTER
MONOLITHIC MEDIAN NOSE AND MEDIAN PAVEMENT PROJECT –
PROJECT NO. 5591**

April 11, 2005 @ 3:00 PM

BIDDER:	BID BOND	TOTAL BID
JIM BOWMAN CONSTRUCTION CO., L.P.	YES	\$142,850.00

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

Dianna Wike

April 11, 2005

Dianna Wike, Buyer

Date

“BID TABULATION STATEMENT”

ALL BIDS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS BID TAB SHEET. HOWEVER, THE LISTING OF A BID ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH BID OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH BID AS RESPONSIVE. THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF BIDS SUBMITTED BASED UPON COMPLIANCE WITH ALL APPLICABLE LAWS, CITY OF PLANO PURCHASING GUIDELINES, AND PROJECT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS. THE CITY WILL NOTIFY THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL BIDS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

PURCHASING DIVISION
CITY OF PLANO TEXAS



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Parks and Recreation		Initials	Date	
Department Head	Don Wendell		Executive Director	<i>[Signature]</i>	5.1.05
Dept Signature:	<i>[Signature: Don Wendell]</i>		City Manager	<i>[Signature]</i>	5/2/05
Agenda Coordinator (include phone #): Linda Benoit (7255)					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No. B120-05 and Conditional Acceptance of the Lowest Responsible Bid/Proposal for the Park Erosion Control Structures-2005 to Craig Olden, Inc. in the amount of \$496,900.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	2004-05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		610,970	1,087,030	700,000	2,398,000
Encumbered/Expended Amount		-610,970	-417,727	0	-1,028,697
This Item		0	-496,900	0	-496,900
BALANCE		0	172,403	700,000	872,403
FUND(S): PARK IMPROVEMENT CIP AND MUNICIPAL DRAINAGE CIP					
COMMENTS: Funds are available in the 2004-05 Park Improvement CIP and Municipal Drainage CIP. This item, in the amount of \$496,900, will leave a current year balance of \$172,403 for the Park Improvement and Creek Erosion projects.					
STRATEGIC PLAN GOAL: Erosion control relates to the City's Goal of Livable Neighborhoods and Urban Centers.					
SUMMARY OF ITEM					
Staff recommends that the bid received from Craig Olden, Inc. in the amount of \$496,900 be accepted as the lowest responsible bid conditioned upon timely execution of any necessary contract documents.					
The bid, in the amount of \$496,900, is for construction of gabion earth retention rock baskets and miscellaneous erosion control devices and the installation of additional parking spaces at High Point Tennis Center. The bid of \$496,900 is below the consultants estimate of \$626,000 and is below the project budget of \$650,000.					
Although only one bid was received, staff does not believe that rebidding the project would result in significantly lower bids. The City of Plano has historically not received many bids for erosion control structures. Craig Olden, Inc. has successfully completed construction of numerous erosion control structures for the City.					



**CITY OF PLANO
COUNCIL AGENDA ITEM**

In the event the low bidder cannot execute documents, staff recommends that the project be rebid.

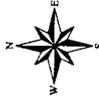
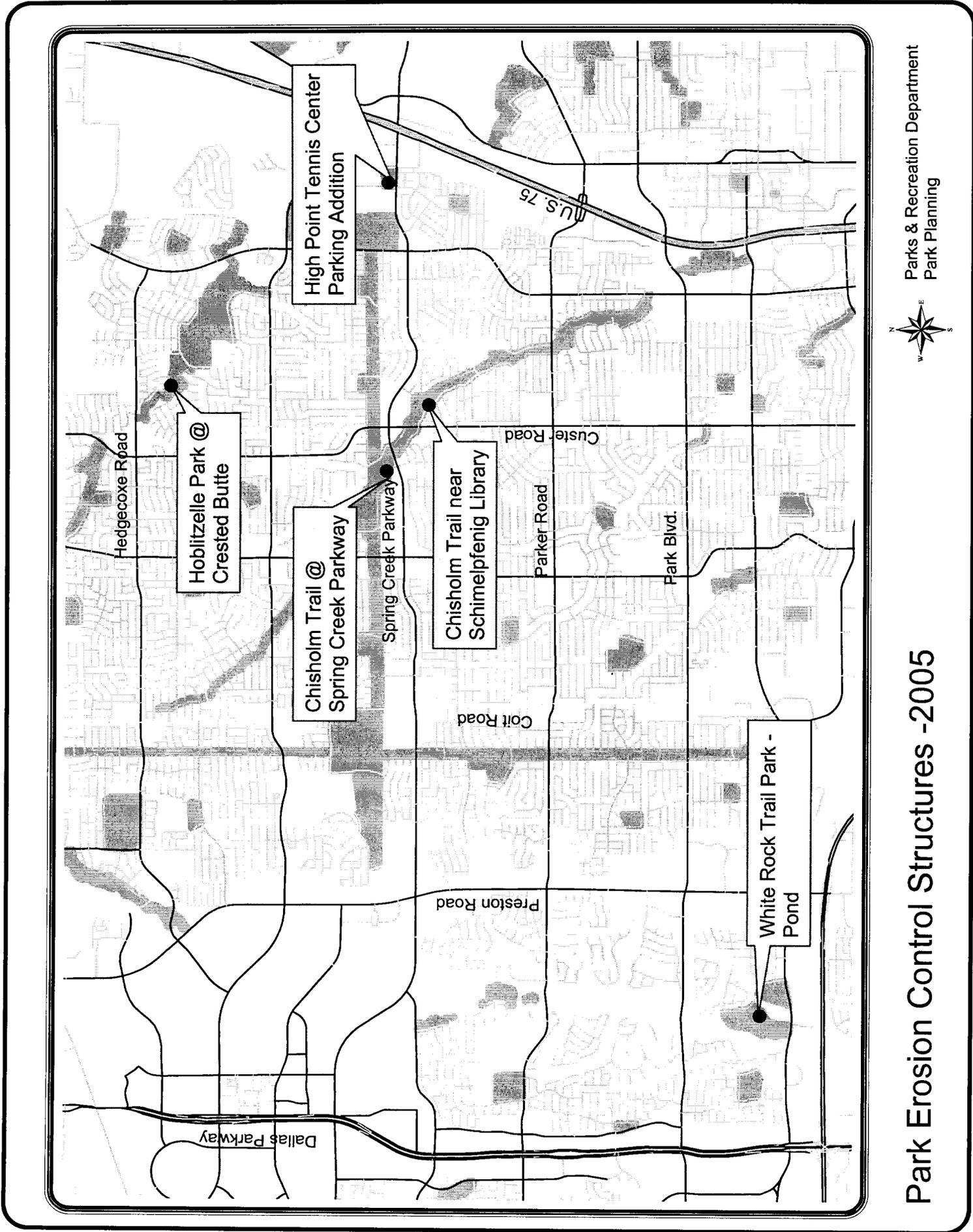
List of Supporting Documents:

Location Map

Bid Tabulation

Other Departments, Boards, Commissions or Agencies

C-2



Park Erosion Control Structures - 2005

CITY OF PLANO
BID TABULATION
B120-05
PARK EROSION CONTROL STRUCTURES - 2005
Project No. 5524
Friday, April 1, 2005 @ 3:00 PM

CONTRACTOR	BID BOND	TOTAL BID
Craig Olden, Inc.	Yes	\$496,900.00

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

Sharron Mason

April 4, 2005

Sharron Mason, Buyer

Date

“BID TABULATION STATEMENT”

ALL BIDS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS BID TAB SHEET. **HOWEVER, THE LISTING OF A BID ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH BID OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH BID AS RESPONSIVE.** THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF BIDS SUBMITTED BASED UPON COMPLIANCE WITH ALL APPLICABLE LAWS, CITY OF PLANO PURCHASING GUIDELINES, AND PROJECT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS. THE CITY WILL NOTIFY THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL BIDS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

PURCHASING DIVISION
CITY OF PLANO TEXAS

C-4



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date:	5/9/05	Reviewed by Legal <i>pb</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Purchasing	Initials	Date		
Department Head	Mike Ryan	Executive Director			
Dept Signature:	<i>J. Palmer</i>	City Manager	<i>JPM</i>	5/2/05	
Agenda Coordinator (include phone #): Dianna C. Wike, Ext. 7549					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No. C143-05 for Athletic Field Marking to Line Pro Field Marking in the estimated annual amount of \$26,603.60.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	04/05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): GENERAL FUND AND RECREATION REVOLVING FUND					
COMMENTS: This item approves price quotes. Expenditures will be made in the Athletic Fields Maintenance Department and the Recreation Revolving Fund within the approved budget appropriations. The estimated annual amount is \$26,604.					
STRATEGIC PLAN GOAL: Athletic Field Marking relates to the City's Goal of "Service Excellence".					
SUMMARY OF ITEM					
ANNUAL CONTRACT WITH RENEWALS					
Staff recommends bid of Line Pro Field in the estimated annual amount of \$26,603.60 be accepted as lowest responsive, responsible bid conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract with two optional one-year renewals for Athletic Field Marking to be utilized by the Parks & Recreation Department.					
List of Supporting Documents: Bid Summary			Other Departments, Boards, Commissions or Agencies		

CITY OF PLANO
BID NO. C143-05
ATHLETIC FIELD MARKING

BID RECAP

Bid opening Date/Time:	4/14/05 @ 4:00 PM
Number of Vendors Notified:	552
Vendors Submitting "NO BIDS":	11
Vendors Non-Responsive to Specification:	None

Responsive Bidders:

Line Pro Field Marking	\$26,603.60
Lined Right Athletic Field Marking	\$26,620.50

January M. Cook

4/28/2005

January M. Cook, Senior Buyer

Date



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date:	5/9/05	Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Equipment Services		Initials	Date	
Department Head	Karl Henry Jim Foster	Executive Director	<i>[Signature]</i>	5-2-05	
Dept Signature:	<i>[Signature]</i> <i>[Signature]</i>	City Manager	<i>[Signature]</i>	5/2/05	
Agenda Coordinator (include phone#):		Linda M. Robinson x4180			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER PURCHASE OFF EXISTING CONTRACT					
CAPTION					
Purchase from Existing Contract/Agreement to authorize the purchase of three (3) Kromer Athletic Field Machines in the amount of \$42,540.00 from Kromer Co., LLC, through the Texas Building and Procurement Commission, Contract No. 805-N1, and authorizing the City Manager or his designee to execute any and all documents necessary to effectuate this purchase.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	04/05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	65,000	0	65,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-42,540	0	-42,540
BALANCE		0	22,460		22,460
FUND(S): EQUIPMENT REPLACEMENT FUND					
COMMENTS: Funds are included in the FY 2004-05 approved budget for the replacement purchase of these items. The remaining funds will be used for other rolling stock and equipment replacement purchases.					
STRATEGIC PLAN GOAL: Periodic scheduled equipment replacement relates to the City's Goal of "Service Excellence".					
SUMMARY OF ITEM					
Equipment Services request the purchase of three Kromer athletic field machines through the Texas Building and Procurement Commission, Contract #805-N1 awarded to Kromer Co., LLC., These three units will be replacing 5 of the following units: #01176, #01177, #01178, #01179 and #01180 for Dept-637/Athletic Field Maintenance, account #071-637-8421; Supplement #00071001 per fiscal year 04-05. These units are for the purpose of the markings and upkeep at City of Plano's ball fields. The City is authorized to purchase from the State Contract list pursuant to Chapter 271, Subchapter D of the Tex.Loc.Govt.Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items.					
Total purchase price of all 3 units is \$42,540.00.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Cover, Memo, Quote Sheet, Requisition via fax					



MEMORANDUM

Date: April 26, 2005
To: Lauren Roberts, Buyer
From: Karl Henry, Equipment Services Manager
Subject: Request to purchase three (3) Kromer Athletic Field Machines through the Texas Building and Procurement Commission Contract No. #805-N1, awarded to Kromer Co., LLC.

Contract Published Price as follows:

AFM-B200	Kromer Field Machine	\$ 8,699.00 x 3 =	\$ 26,097.00
GA-60	Grooming Attachment	\$ 1,598.00 x 3 =	\$ 4,794.00
RR-1	Ridge Remover	\$ 1,179.00 x 3 =	\$ 3,537.00
HPP	Hydraulic Power Pack	\$ 1,399.00 x 3 =	\$ 4,197.00
EL-1	Electric Life	\$ 459.00 x 3 =	\$ 1,377.00
	Shipping, Crating	\$ 846.00 x 3 =	<u>\$ 2,538.00</u>
TOTAL PRICE:			\$ 42,540.00

TOTAL Budgeted Amount: \$ 65,000.00

Note: Three (3) units are scheduled replacements for the following five (5) units: #01176; 01177; 01178; 01179 and 01180 for Dept-637/Athletic Field Maintenance approved per fiscal year 04/05. Account #071-637-8421 Supplement #00071001

Please reference Purchase Order Requisition No. 903380.

If you have any questions please feel free to contact me at extension 4181 or David Garza at extension 4183 for further assistance.

Cc: David Garza
Jimmy Foster
Kevin Murray
Diane Palmer
Stephen Teiper

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CITY OF PLANO

04/14/05

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P.O. Number 903380 OR
 Cost Center 071

Supplier KROMER COMPANY
 2365 COMMERCE BOULEVARD
 MOUND MN 55364-1425

Ship To CITY OF PLANO
 EQUIPMENT SERVICES
 4200 W PLANO PARKWAY
 PLANO TX 75093

Ordered 04/14/05 Freight
 Requested 04/14/05 Order Taken By
 Delivery

Description	Ordered	UOM	Unit Price	Extended Price	Request Date
KROMER FIELD MACHINE	3	EA	8,699.0000	26,097.00	04/14/05

INVOICE TO FOLLOW
 REQUEST TO PURCHASE THREE (3)
 KROMER ATHLETIC FIELD MACHINES
 THROUGH THE TEXAS BUILDING AND
 PROCUREMENT COMMISSION.
 CONTRACT NO. #805-N1, AWARDED
 TO KROMER COMPANY, LLC.
 ITEM NO. AFM-B200. KROMER FIELD MACHINE:
 \$8,699.00 EACH, TOTAL FOR THREE (3) \$26,097.00.
 ITEM NO. GA-60. GROOMING ATTACHMENTS:
 \$1,598.00 EACH, TOTAL FOR THREE (3) \$4,794.00.
 ITEM NO. RR-1. RIDGE REMOVERS:
 \$1,179.00 EACH, TOTAL FOR THREE (3) \$3,537.00.
 ITEM NO. HPP. HYDRAULIC POWER PACKS:
 \$1,399.00 EACH, TOTAL FOR THREE (3) \$4,197.00.
 ITEM NO. EL-1. ELECTRIC LIFE:
 \$459.00 EACH, TOTAL FOR THREE (3) \$1,377.00.
 SHIPPING, CRATING, INSTALLATION AND TRAINING:
 \$846.00 PER UNIT FOR A TOTAL OF \$2,538.00.
 TOTAL DOLLAR AMOUNT BUDGETED FOR FY04/05; \$65,000.00.
 TOTAL PRICE FOR THIS PURCHASE: \$42,540.00.

 NOTE: THREE (3) UNITS ARE SCHEDULED REPLACEMENTS FOR
 THE FOLLOWING FIVE (5) UNITS: 01176, 01177, 01178, 01179 AND
 01180, DEPT. 637. ATHLETIC FIELD MAINTENANCE.
 APPROVED PER FY04/05.
 ACCOUNT #071-637-8421.
 SUPPLEMENT #00071001.
 REQUISITION REQUESTED BY KARL HENRY.

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CITY OF PLANO

04/14/05

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Description	Ordered	UOM	Unit Price	P.O. Number Extended Price	903380 Request Date	OR
GROOMING ATTACHMENTS INVOICE TO FOLLOW	3	EA	1,598.0000	4,794.00	04/14/05	
RIDGE REMOVERS INVOICE TO FOLLOW	3	EA	1,179.0000	3,537.00	04/14/05	
HYDRAULIC POWER PACKS INVOICE TO FOLLOW	3	EA	1,399.0000	4,197.00	04/14/05	
ELECTRIC LIFE INVOICE TO FOLLOW	3	EA	459.0000	1,377.00	04/14/05	
SHIPPING, CRATING, ETC. INVOICE TO FOLLOW SHIPPING, CRATING, INSTALLATION AND TRAINING.	3	EA	846.0000	2,538.00	04/14/05	
				Total Order		
TermDue upon receipt				42,540.00		

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KROMER Co. LLC – Dealer **Bill and Kris Kromer Bergeson**
2130 North FM 1174 **Bertram, TX 78605**
512-355-9762 **Fax-512-355-9762**
bergeson@worldnet.att.net
www.kromarco.com

April 24, 2005

Ms. Lauren Roberts
Purchasing Department
City of Plano
Box 86358
Plano, TX 75086

Dear Lauren,

As promised, what follows is the information you requested:

<u>Quantity</u>				<u>Total</u>
3	AFM-B200	Kromer Athletic Field Machine, With 13 hp Honda Engine	\$8,699.00	\$26,097.00
3	GA-60	Grooming Attachment	\$1,598.00	\$ 4,794.00
3	RR-1	Ridge Remover	\$1,179.00	\$ 3,537.00
3	HPP	Hydraulic Power Pack	\$1,399.00	\$ 4,197.00
3	EL-1	Electric Lift	\$ 459.00	\$ 1,377.00
3	Shipping and Crating		\$ 846.00	\$ 2,538.00

The above pricing is firm until 2006, with the exception of the shipping, which is firm for 30 days. Delivery will be 30 to 45 days upon receipt of order.

Again, thank you for your interest in the Kromer Company and its products. Should you have additional questions, please contact me at 512-355-9762.

Sincerely,

Bill Bergeson

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date: 05/09/05		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Engineering	Initials	Date		
Department Head	Alan L. Upchurch	Executive Director	5/2/05		
Dept Signature:	<i>Alan L. Upchurch</i>	City Manager	5/2/05		
Agenda Coordinator (include phone #): Irene Pegues (7198)				Project No. 5378	
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER REIMBURSEMENT OF OVERSIZE					
CAPTION					
Approving and authorizing reimbursement to Plain Old Medical, LP for oversize participation for paving improvements in Marsh Lane associated with construction of Plano / 544 Business Park Addition, in the amount of \$110,440.61.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	2004-05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		942,949	1,216,051	0	2,159,000
Encumbered/Expended Amount		-942,949	-683,567	0	-1,626,516
This Item		0	-110,441	0	-110,441
BALANCE		0	422,043	0	422,043
FUND(S): STREET IMPROVEMENT CIP					
COMMENTS: Funds are available in the 2004-05 Street Improvement CIP. This item, in the amount of \$110,441, will leave a current year balance of \$422,043 for Oversize Reimbursements.					
STRATEGIC PLAN GOAL: Oversized participation relates to the City's Goal of Safe, Livable Neighborhoods.					
SUMMARY OF ITEM					
In accordance with the Subdivision Ordinance and a Subdivision Improvement Agreement, reimbursement to Plain Old Medical, LP is due for oversize paving improvements in Marsh Lane associated with construction of Plano / 544 Business Park Addition. The construction was inspected and found to be in conformance with the executed Agreement.					
Staff recommends the City Council authorize payment for the oversize participation.					
List of Supporting Documents: Memo dated 04/22/05 from Chief Engineer Letter dated 04/20/05 from City Engineer Exhibits A & C Location Map			Other Departments, Boards, Commissions or Agencies n/a		

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MEMORANDUM

Date: April 22, 2005
To: Melody Morgan, CIP Budget Coordinator
From: Charles Davis, Chief Engineer/Private Development 
Subject: Plano / 544 Business Park Addition, Lot 1, Block A
Project No. 5378

We have now accepted the improvements in subject addition. In accordance with our Subdivision Improvement Agreement dated December 5, 2003 reimbursement for oversize paving participation in Marsh Lane is due to Plain Old Medical, LP. Total City participation will be \$110,440.61.

CD/dd

xc: Alan Upchurch, City Engineer
Ricky Lindley, Mapping & Information Supervisor
Charles Davis, Chief Engineer/Private Development

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April 20, 2005

Pat Evans
Mayor

Shep Stahel
Mayor Pro Tem

Ken Lambert
Deputy Mayor Pro Tem

Scott Johnson
Place 2

Phil Dyer
Place 3

Sally Magnuson
Place 4

Steve Stovall
Place 5

Jean Callison
Place 7

Thomas H. Muehlenbeck
City Manager

Carl Westcott
100 Crescent Court
Dallas, Texas 75201

**Re: Plano 544 Business Park, Lot 1, Block A
7000 West Plano Parkway
Project No. 5372**

Dear Mr. Westcott:

A final inspection of the water, sanitary sewer, paving and drainage improvements, as shown on plans prepared by Wier & Associates, has been made by the City of Plano. These improvements were found to be satisfactory and in accordance with the City of Plano specifications.

A Maintenance Bond has been received from Llano Utility Services. Therefore, the improvements noted above are accepted by the City of Plano subject to the one-year maintenance requirements.

A Certificate of Occupancy is released by this department subject to approval by the Building Inspection Department.

Sincerely,

Alan Upchurch, P.E.
City Engineer

Is

xc: Building Inspection - Keith Schmidt, Anthony Han, Charles Hart, Mamie Free, Cliff Bormann
Planning - Charles Alexander, Melody Spencer
Engineering - Warren Laney, Irene Pegues
Public Works - Dale Pettit
Utility Operations - David Ratcliff
Parks - Jim Fox
Verizon
Southwestern Bell (2 locations)
Wier & Associates
Llano Utility Services

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WIER & ASSOCIATES, INC.

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST

DATE: 3-Dec-03
 CLIENT: Plain Old Medical, L.P.
 PROJECT: Plano Pediatric, Plano, TX
 EXHIBIT "A" - City Portion

W&A JOB NO: 03022

ITEM NO.	DESCRIPTION OF ITEM	TOTAL QUANTITY	UNIT	UNIT PRICE	COST
Marsh Lane & Plano Parkway Turn Lane					
<i>(including all traffic buttons and arrows)</i>					
1	Unclassified Excavation	675	CY	\$4.00	\$2,700.00
2	Sawcut Existing Pavement	434	LF	\$1.75	\$759.50
3	Remove & Dispose Existing Pavement	215	SY	\$18.00	\$3,870.00
4	6" Lime Stabilized Subgrade	1,165	SY	\$3.00	\$3,495.00
5	Lime for subgrade (37lb/SY)	21.60	Ton	\$20.00	\$432.00
6	8" 5000 psi Reinforced Conc. Pvmt. w/ Curb	1,152	SY	\$28.35	\$32,659.20
7	Brick Paver Median Caps	52	SF	\$6.00	\$312.00
8	Remove Existing Guard Rail	0	LF	\$5.00	\$0.00
9	Relocate Telephone Vault	1	EA	\$2,500.00	\$2,500.00
10	Remove 6" White Traffic Buttons	50	EA	\$10.00	\$500.00
11	Remove 4" White Non-Reflec.Traffic Buttons	48	EA	\$2.00	\$96.00
12	Remove 4" White Reflective Traffic Buttons	46	EA	\$2.00	\$92.00
13	Remove 4" Yellow Non-Reflec.Traffic Buttons	318	EA	\$2.00	\$636.00
14	Remove 4" Yellow Reflective Traffic Buttons	312	EA	\$2.00	\$624.00
15	Remove Exist. Thermoplastic Turn Arrow	12	EA	\$50.00	\$600.00
16	Install 6" White Reflective Traffic Buttons	13	EA	\$20.00	\$260.00
17	Install 4" White Non-Reflec.Traffic Buttons	527	EA	\$10.00	\$5,270.00
18	Install 4" White Reflective Traffic Buttons	500	EA	\$10.00	\$5,000.00
19	Install 6" Yellow Reflective Traffic Buttons	41	EA	\$10.00	\$410.00
20	Install 4" Yellow Non-Reflec.Traffic Buttons	66	EA	\$10.00	\$660.00
21	Install 4" Yellow Reflective Traffic Buttons	60	EA	\$10.00	\$600.00
22	Install Thermoplastic Turn Arrow	15	EA	\$100.00	\$1,500.00
23	Install Thermoplastic Stop Bar	1	EA	\$250.00	\$250.00
24	Seeding Disturbed Areas	835	SY	\$0.60	\$501.00
25	Traffic Control	1	LS	\$1,100.00	\$1,100.00
Subtotal:					\$64,826.70
6% Engineering Fee:					\$3,889.60
TOTAL:					\$68,716.30
Church Left Turn Lane					
1	Unclassified Excavation	40	CY	\$4.00	\$160.00
2	Sawcut Existing Pavement	245	LF	\$1.75	\$428.75
3	Remove & Dispose Existing Pavement	230	SY	\$18.00	\$4,140.00
4	6" Lime Stabilized Subgrade	310	SY	\$3.00	\$930.00
5	Lime for subgrade (37lb/SY)	6	Ton	\$20.00	\$120.00
6	8" 5000 psi Reinforced Conc. Pvmt. w/ Curb	260	SY	\$28.35	\$7,371.00
7	Brick Paver Median Caps	54	SF	\$6.00	\$324.00
8	Adjust Water Valve to Grade	2	EA	\$150.00	\$300.00
9	Install Landscape Maint. Ramp	1	EA	\$750.00	\$750.00
10	Seeding Distrubed Areas	200	SY	\$0.60	\$120.00
Subtotal:					\$14,643.75
6% Engineering Fee:					\$878.63

*From
 Check*

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Exhibit "A" Page 2 of 2

	TOTAL:				\$15,522.38
	Median Nose Reconstruction				
1	Unclassified Excavation	25	CY	\$4.00	\$100.00
2	Sawcut Existing Pavement	236	LF	\$1.75	\$413.00
3	Remove & Dispose Existing Pavement	145	SY	\$18.00	\$2,610.00
4	6" Lime Stabilized Subgrade	20	SY	\$3.00	\$60.00
5	Lime for subgrade (37lb/SY)	0.40	Ton	\$20.00	\$8.00
6	8" 5000 psi Reinforced Conc. Pvmnt. w/ Curb	18	SY	\$28.35	\$510.30
7	Install Additional 6" Concrete Curb	225	LF	\$12.00	\$2,700.00
8	Brick Paver Median Caps	52	SF	\$6.00	\$312.00
9	Seeding Distrubed Areas	155	SY	\$0.60	\$93.00
	Subtotal:				\$6,806.30
	6% Engineering Fee:				\$408.38
	TOTAL:				\$7,214.68
	Marsh Lane Transition				
1	Unclassified Excavation	70	CY	\$4.00	\$280.00
2	Sawcut Existing Pavement	320	LF	\$1.75	\$560.00
3	Remove & Dispose Existing Pavement	70	SY	\$18.00	\$1,260.00
4	6" Lime Stabilized Subgrade	430	SY	\$3.00	\$1,290.00
5	Lime for subgrade (37lb/SY)	8	Ton	\$20.00	\$160.00
6	8" 5000 psi Reinforced Conc. Pvmnt. w/ Curb	390	SY	\$28.35	\$11,056.50
7	Remove and Replace Existing Guard Rail	130	LF	\$24.00	\$3,120.00
8	Seeding Disturbed Areas	310	SY	\$0.60	\$186.00
	Subtotal:				\$17,912.50
	6% Engineering Fee:				\$1,074.75
	TOTAL:				\$18,987.25
	TOTAL MARSH LANE IMPROVEMENTS:				\$110,440.61

The Costs provided in this opinion of probable construction cost has been provided to us by the contractor for this project.

Prepared by: Jake Fears, E.I.T.

Checked by: Carlo Silvestri, P.E.

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Exhibit "C"



WIER & ASSOCIATES, INC.

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST

DATE: 3-Dec-03

CLIENT: Plain Old Medical, L.P.

PROJECT: Plano Pediatric, Plano, TX

W&A JOB NO: 03022

EXHIBIT "C" - Total Marsh Lane Improvements

ITEM NO.	DESCRIPTION OF ITEM	TOTAL QUANTITY	UNIT	UNIT PRICE	COST
	Marsh Lane & Plano Parkway Turn Lane				
	(including all traffic buttons and arrows)				
1	Unclassified Excavation	1,200	CY	\$4.00	\$4,800.00
2	Sawcut Existing Pavement	1,235	LF	\$1.75	\$2,161.25
3	Remove & Dispose Existing Pavement	660	SY	\$18.00	\$11,880.00
4	6" Lime Stabilized Subgrade	2,850	SY	\$3.00	\$8,550.00
5	Lime for subgrade (37lb/SY)	53.00	Ton	\$20.00	\$1,060.00
6	8" 5000 psi Reinforced Conc. Pvmt. w/ Curb	2,700	SY	\$28.35	\$76,545.00
7	Install Additional 6" Concrete Curb	225	LF	\$12.00	\$2,700.00
8	Brick Paver Median Caps	158	SF	\$6.00	\$948.00
9	Adjust Water Valve to Grade	2	EA	\$150.00	\$300.00
10	Remove Existing Guard Rail	41	LF	\$5.00	\$205.00
11	Remove and Replace Existing Guard Rail	130	LF	\$24.00	\$3,120.00
12	Relocate Telephone Vault	1	EA	\$2,500.00	\$2,500.00
13	Install Landscape Maint. Ramp	1	EA	\$750.00	\$750.00
14	Remove 6" White Traffic Buttons	50	EA	\$10.00	\$500.00
15	Remove 4" White Non-Reflec. Traffic Buttons	48	EA	\$2.00	\$96.00
16	Remove 4" White Reflective Traffic Buttons	46	EA	\$2.00	\$92.00
17	Remove 4" Yellow Non-Reflec. Traffic Buttons	318	EA	\$2.00	\$636.00
18	Remove 4" Yellow Reflective Traffic Buttons	312	EA	\$2.00	\$624.00
19	Remove Exist. Thermoplastic Turn Arrow	12	EA	\$50.00	\$600.00
20	Install 6" White Reflective Traffic Buttons	13	EA	\$20.00	\$260.00
21	Install 4" White Non-Reflec. Traffic Buttons	527	EA	\$10.00	\$5,270.00
22	Install 4" White Reflective Traffic Buttons	500	EA	\$10.00	\$5,000.00
23	Install 6" Yellow Reflective Traffic Buttons	41	EA	\$10.00	\$410.00
24	Install 4" Yellow Non-Reflec. Traffic Buttons	66	EA	\$10.00	\$660.00
25	Install 4" Yellow Reflective Traffic Buttons	60	EA	\$10.00	\$600.00
26	Install Thermoplastic Turn Arrow	15	EA	\$100.00	\$1,500.00
27	Install Thermoplastic Stop Bar	1	EA	\$250.00	\$250.00
28	Seeding Disturbed Areas	1,700	SY	\$0.60	\$1,020.00
29	Traffic Control	1	LS	\$2,200.00	\$2,200.00
	Subtotal:				\$135,237.25
	6% Engineering Fee:				\$8,114.24
	TOTAL MARSH LANE IMPROVEMENTS:				\$143,351.49

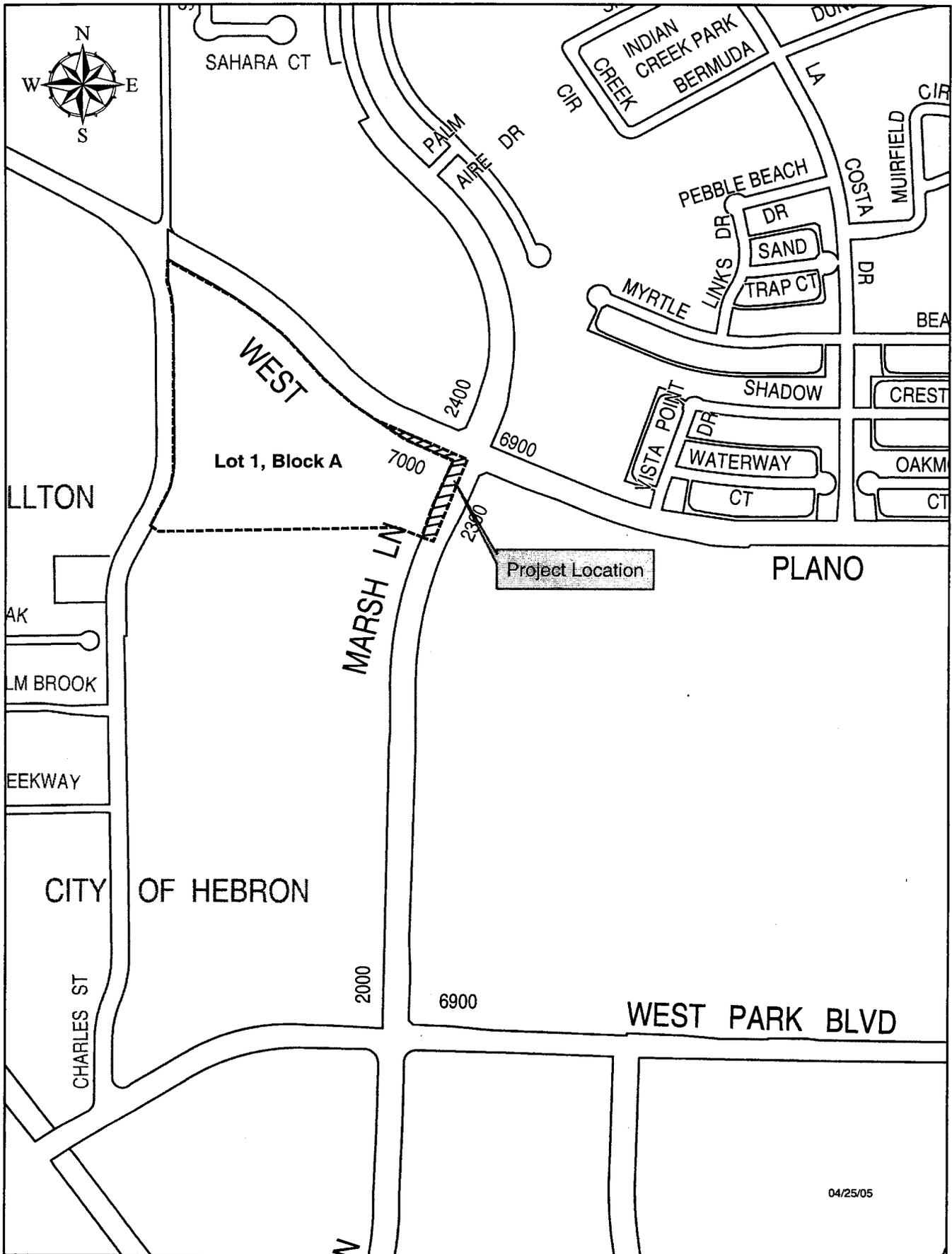
The Costs provided in this opinion of probable construction cost has been provided to us by the contractor for this project.

Prepared by: Jake Fears, E.I.T.

Checked by: Carlo Silvestri, P.E.

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PLANO / 544 BUSINESS PARK



LOCATION MAP

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Council Meeting Date: 5/9/05		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch		Executive Director	5/7/05
Dept Signature:	<i>Alan Upchurch</i>		City Manager	5/2/05
Agenda Coordinator (include phone #): Irene Pegues (7198)				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Amending Resolution 2002-3-12(R) to increase the funding for the extension of fire sprinkler mains in historic structures located in the Plano Downtown Business District and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2004-05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	41,280	61,720	0	103,000
Encumbered/Expended Amount	-41,280	-37,499	0	-78,779
This Item	0	-150,000	0	-150,000
BALANCE	0	-125,779	0	-125,779
FUND(S): WATER CIP				
COMMENTS: Funds are available in the 2004-05 Water CIP. This resolution amendment, in the amount of \$150,000, will exceed the current year balance by \$125,779 for the Downtown Fire Protection project. The overage will be funded through savings and reallocation from the Water Line Crossings project.				
STRATEGIC PLAN GOAL: Extension of fire sprinkler mains relates to the City's Goals of Safe, Livable Neighborhoods.				
SUMMARY OF ITEM				
In March 2003, the Council approved a grant program for the reimbursement of costs for constructing fire protection sprinkler systems in downtown. The program established \$100,000 as the maximum funding. The program has been successful, and the funding allocation needs to be increased. Staff is recommending a \$250,000 maximum for the program. We anticipate the actual expenditures will be made over several years.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
		N/A		

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS AMENDING RESOLUTION 2002-3-12(R) TO INCREASE THE FUNDING FOR THE EXTENSION OF FIRE SPRINKLER MAINS IN HISTORIC STRUCTURES LOCATED IN THE PLANO DOWNTOWN BUSINESS DISTRICT AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, under Chapter 380 of the Texas Local Government Code, the governing body of a municipality may establish and provide for the administration of a grant program that promotes local economic development and stimulates business and commercial activity in the municipality; and

WHEREAS, Resolution No. 2002-3-12(R), as amended, created a Chapter 380 grant program for the construction of a sprinkler main in the historic downtown business district that would be of public benefit by providing a safe environment; protection of historic resources; and promoting the continued vitality of the downtown Business/Government District; and

WHEREAS, funding for this program was limited to an amount not to exceed One Hundred Thousand Dollars (\$100,000.00) but additional funding is now necessary to complete this project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section I of Resolution No. 2002-3-12(R) is amended to read as follows:

“The City Council adopts the findings set forth in the preamble hereof and establishes the City of Plano Chapter 380 Program (“Program”) pursuant to the provisions of Chapter 380 of the Texas Local Government Code. The purpose of the Program shall be to make grants of public money to those eligible owners of buildings in the downtown Business/Government District for the cost of constructing water sprinkler mains within or through their buildings. Maximum funding for the Program shall not exceed Two Hundred and Fifty Thousand (\$250,000.00) Dollars over the life of the grant program.”

Section II. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 05/09/05		Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date
Department Head	Upchurch	Executive Director	<i>[Signature]</i>	5/2/05
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	5/2/05
Agenda Coordinator (include phone #):		Irene Peques (7198) <i>[Signature]</i>	(Project No. 5394)	
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Approving the terms and conditions of a License Agreement by and between the City of Plano and Dallas Area Rapid Transit relating to construction of a ten (10) inch sanitary sewer line crossing the Cotton Belt Line at Plano Parkway (between Los Rios Boulevard and 14 th Street) and authorizing its execution by the City Manager or his designee and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2004-05	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(s):				
COMMENTS: No fiscal impact.				
SUMMARY OF ITEM				
This agreement with DART grants a license to the City of Plano for the purpose of constructing, installing, maintaining and operating a ten (10) inch sanitary sewer line crossing the Cotton Belt Line at Plano Parkway. The sewer line is a City of Plano project known as the RT Zoning Sanitary Sewer (Project No. 5394) and will be installed with the construction contract for the installation of Plano Parkway from Los Rios Boulevard to 14 th Street (F.M. 544).				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
License Agreement		N/A		
Location Map				

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND DALLAS AREA RAPID TRANSIT TO CONSTRUCT A TEN (10) INCH SANITARY SEWER LINE CROSSING THE COTTON BELT LINE AT PLANO PARKWAY; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed license agreement by and between the Dallas Area Rapid Transit ("DART") and the City of Plano ("City") to construct a ten (10) inch sanitary sewer line crossing the Cotton Belt Line at Plano Parkway, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or, in his absence, an Executive Director is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this _____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

LICENSE AGREEMENT

THIS Agreement, by and between DALLAS AREA RAPID TRANSIT ("DART"), a regional transportation authority, created, organized and existing pursuant to Chapter 452, Texas Transportation Code, V.A.T.C.S., as amended (the "Act") and the CITY OF PLANO, TEXAS, a home-rule municipal corporation ("Licensee"), acting herein by and through its duly authorized official, whose mailing address is P.O. Box 860358, Plano, Texas 75086-0358.

WITNESSETH:

1. **Purpose.** DART hereby grants a license (the "License") to Licensee for the purposes of constructing, installing, maintaining and operating one 10-inch sanitary sewer line (the "Permitted Improvement") crossing the Cotton Belt Line at Plano Parkway, Mile Post 586.36, in Plano, Collin County, Texas, more particularly described as shown in Exhibit "A" attached hereto and incorporated herein for all pertinent purposes, (the "Property").

The Property shall be used by Licensee solely for the purpose of operating and maintaining the Permitted Improvement (the "Permitted Use"). Licensee's right to enter upon and use the Property shall be limited solely to the Permitted Use and the Permitted Improvement.

2. **Term.** This License shall become effective on the date of signing by the last party to execute this License Agreement and continue thereafter until terminated by either party as provided herein (the "Term").

3. **Consideration.** The consideration for the granting of this License shall be (a) TEN AND NO/100 (\$10.00) DOLLARS cash in hand paid by Licensee to DART, and (b) the performance by Licensee of each of the obligations undertaken by Licensee in this License for the purpose stated in section number 1 above.

4. **Non Exclusive License.** This License is non-exclusive and is subject to (a) any existing utility, drainage or communication facility located in, on, under, or upon the Property owned by DART, any Railroad, utility, or communication company, public or private; (b) to all vested rights presently owned by any Railroad, utility or communication company, located within the boundaries of the Property; and (c) to any existing lease, license or other interest in the Property granted by DART to any individual, corporation or other entity, public or private.

5. **Design, Construction, Operation and Maintenance.** DART's use of the Property and adjoining property may include the use of electrically powered equipment. Notwithstanding DART's inclusion within its system of measures designed to reduce stray current which may cause corrosion, **Licensee is hereby warned that such measures may not prevent electrical current being present in proximity to the Permitted Improvement and that such presence could produce corrosive effects to the Permitted Improvement.**

5.01. All design, construction, reconstruction, replacement, removal, operation and maintenance of the Permitted Improvement on the Property shall be done in such a manner so as not to interfere in any way with the operations of DART or other Railroad operations. In particular, cathodic protection or other stray current corrosion control measures of the Permitted Improvement as required shall be made a part of the design and construction of the Permitted Improvement.

5.02. During the design phase and prior to commencing any construction on the Property, a copy

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of the construction plans showing the exact location, type and depth of the construction, any cathodic protection measures and any working area, shall be submitted for written approval to DART and Railroad (the "Railroad", whether one or more.) Such approval shall not be unreasonably withheld. No work shall commence until said plans have been approved by DART.

5.03. By acceptance of this License, Licensee agrees to design, construct and maintain the Permitted Improvement in such a manner so as not to create a hazard to the use of the Property, and further agrees to pay any damages which may arise by reason of Licensee's use of the Property under this Agreement.

5.04 By acceptance of this License, Licensee covenants and agrees to institute and maintain a reasonable testing program to determine whether or not additional cathodic protection of its Permitted Improvement is necessary and if it is or should become necessary, such protection shall be immediately instituted by Licensee at its sole cost and expense.

5.05. **Absence of markers does not constitute a warranty by DART that there are no subsurface installations on the Property.**

6. **Governmental Approvals.** Licensee, at its sole cost and expense, shall be responsible for and shall obtain, any and all licenses, permits, or other approvals from any and all governmental agencies, federal, state or local, required to carry on any activity permitted herein.

7. **DART's Standard Contract and Insurance.** No work on the Property shall be commenced by Licensee or any contractor for Licensee until such Licensee or contractor shall have executed DART's Standard Contractor's Agreement covering such work, and has furnished insurance coverage in such amounts and types as shall be satisfactory to DART. A company-issued photo identification of Licensee's employees, contractors or agents shall be required to work on the Property.

8. **Duty of Care in Construction.** Licensee or its contractor shall use reasonable care during the construction period and thereafter, to avoid damaging any existing buildings, equipment and vegetation on or about the Property and any adjacent property owned by or under the control of DART. If the failure to use reasonable care by the Licensee or its contractor causes damage to the Property or any adjacent property, the Licensee and/or its contractor shall immediately replace or repair the damage at no cost or expense to DART. If Licensee or its contractor fails or refuses to make or effect any such repair or replacement, DART shall have the right, but not the obligation, to make or effect any such repair or replacement at the sole cost and expense of Licensee, which cost and expense Licensee agrees to pay to DART upon demand.

9. **Environmental Protection.**

9.01. Licensee shall not use or permit the use of the Property for any purpose that may be in violation of any local, state or federal laws pertaining to health or the environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), the Clean Water Act ("CWA") and the Clean Air Act ("CAA").

9.02. Licensee warrants that the Permitted Use of the Property will not result in the disposal or other release of any hazardous substance or solid waste on or to the Property, and that it will take all steps necessary to insure that no such hazardous substance or solid waste will ever be discharged onto the Property by Licensee or its Contractors.

9.03. The terms "hazardous substance" and "release" shall have the meanings specified in

CERCLA and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in the RCRA; PROVIDED, HOWEVER, that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and PROVIDED FURTHER, that to the extent that the laws of the State of Texas establish a meaning for "hazardous substance", "release", "solid waste", or "disposal", which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply.

9.04. To the extent permitted by law and without waiving governmental immunity, Licensee shall indemnify and hold DART and Railroad harmless against all cost of environmental clean up to the Property resulting from Licensee's use of the Property under this Agreement.

10. Mechanic's Liens Not Permitted. Licensee shall fully pay for all labor and materials used in, on, or about the Property and will not permit or suffer any mechanic's or materialmen's liens of any nature to be affixed against the Property by reason of any work done or materials furnished to the Property at Licensee's instance or request.

11. Maintenance of Completed Improvements. The Permitted Improvement shall be maintained by the Licensee in such a manner as to keep the Property in a good and safe condition with respect to Licensee's use. In the event the Licensee fails to maintain the Property as required, upon discovery, DART shall notify Licensee of such occurrence in writing. In the event Licensee shall not have remedied the failure within ten (10) days from the date of such notice, DART shall have the right, but not the obligation to remedy such failure at the sole cost and expense of Licensee. In the event DART exercises its right to remedy Licensee's failure, Licensee agrees to immediately pay to DART all costs incurred by DART upon demand.

12. Future Use by DART.

12.01. This License is made expressly subject and subordinate to the right of DART to use the Property for any purpose whatsoever.

12.02. In the event that DART shall, at any time subsequent to the date of this Agreement, at its sole discretion, determine that the relocation of the Permitted Improvement shall be necessary or convenient for DART's use of the Property, Licensee shall, at its sole cost and expense relocate said Permitted Improvement so as not to interfere with DART's or DART's assigns use of the Property. In this regard, DART may, but is not obligated to, designate other property for the relocation of the Permitted Improvement. A minimum of thirty (30) days written notice for the exercise of one or more of the above actions shall be given by DART. Relocation will occur within thirty (30) days, unless extended by mutual agreement of the parties.

13. Relocation Benefits. The parties hereto agree that the construction of the Permitted Improvement on the Property shall be subsequent to the acquisition of the Property by DART and that Licensee does hereby waive any and all claim that it may have under the Act, or otherwise, regarding the payment of any and all relocation benefits and that all costs associated with any relocation of such Improvements shall be borne by Licensee.

14. Duration of License. This License shall terminate and be of no further force and effect (a) in the event Licensee shall discontinue or abandon the use of the Permitted Improvement; (b) in the event Licensee shall relocate the Permitted Improvement from the Property; (c) upon termination in accordance with paragraph 19 of this Agreement, whichever event first occurs.

15. Compliance With Laws and Regulations. Licensee agrees to abide by and be governed by all laws, ordinances and regulations of any and all governmental entities having jurisdiction over the

Licensee and by Railroad regulations, policies and operating procedures established by the Railroad, or other applicable Railroad regulating bodies, and to the extent permitted by law and without waiving governmental immunity, Licensee agrees to indemnify and hold DART harmless from any failure to so abide and all actions resulting therefrom.

16. Indemnification.

16.01. To the extent permitted by law and without waiving governmental immunity, Licensee shall defend, protect, and keep DART and the Railroad forever harmless and indemnified against and from any penalty or damage or charge imposed for any violation of any law, ordinance, rule or regulation arising out of the use of the Property by Licensee, its employees, officers, agents, contractors, or assigns, or those holding under Licensee;

16.02. To the extent permitted by law and without waiving governmental immunity, Licensee shall at all times protect, indemnify and it is the express intention of the parties hereto that Licensee hold DART and the Railroad harmless against and from any and all loss, cost, damage or expense, including attorney's fees, arising out of or from any accident or other occurrence on or about said Property resulting from use of the Property by Licensee, its officers, employees, agents, customers and invitees;

16.03. To the extent permitted by law and without waiving governmental immunity, Licensee shall at all times protect, indemnify and hold DART and the Railroad harmless against and from any and all loss, cost, damage or expense, including attorney's fees arising out of any failure of Licensee, its employees, officers, agents, contractors or assigns in any respect to comply with and perform all the requirements and provisions hereof.

17. **Termination of License.** At such time as this License may be terminated or canceled for any reason whatsoever, Licensee, upon request by DART, shall remove all improvements and appurtenances owned by it, situated in, on, under or attached to the Property, regardless of whether or not such improvements were placed thereon by Licensee, and shall restore the Property to a condition satisfactory to DART, at Licensee's sole expense.

18. **Assignment.** Licensee shall not assign or transfer its rights under this Agreement in whole or in part, or permit any other person or entity to use the License hereby granted without the prior written consent of DART which DART is under no obligation to grant.

19. **Methods of Termination.** This Agreement may be terminated in any of the following ways:

19.01. By written Agreement of both parties;

19.02. By either party giving the other party thirty (30) days written notice;

19.03. By either party, upon failure of the other party to perform its obligations as set forth in this Agreement.

20. Miscellaneous.

20.01. Notice. When notice is permitted or required by this Agreement, it shall be in writing and shall be deemed delivered when delivered in person or when placed, postage prepaid, in the U.S. Mail, Certified, Return Receipt Requested, and addressed to the parties at the following addresses:

LICENSOR: Dallas Area Rapid Transit OR

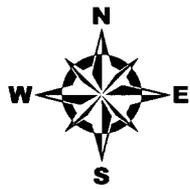
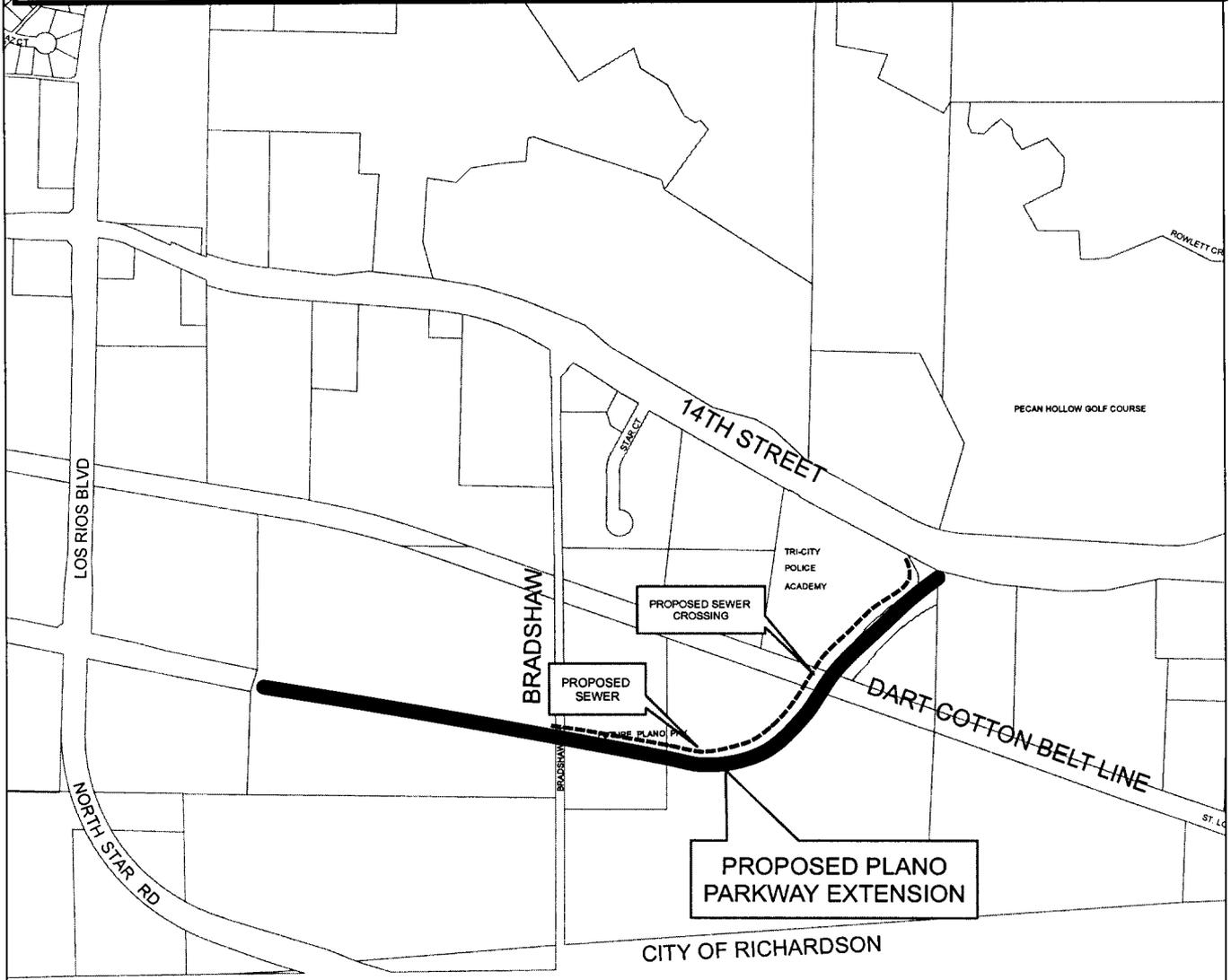
Plano Pkwy. 10-inch Sanitary Sewer

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Mile Post 586.36

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RT ZONING SEWER INSTALLATION BRADSHAW TO 14TH WITH PLANO PARKWAY EXTENSION





CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget C.S.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Council Meeting Date: 05/09/2005		Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Police Department		Initials	Date
Department Head	Gregory W. Rushin		Executive Director	
Dept Signature:	<i>Gregory W. Rushin</i>		City Manager	<i>JM</i> 5/2/05
Agenda Coordinator (include phone #): Pam Haines, ext 2526				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, AUTHORIZING THE CITY OF PLANO TO PARTICIPATE IN AND RECEIVE FUNDING THROUGH THE TEXAS HIGHWAY TRAFFIC SAFETY PROGRAM FOR A "CLICK IT OR TICKET" PROJECT, TO BE CONDUCTED DURING MEMORIAL DAY HOLIDAY PERIOD; AUTHORIZING THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR TO EXECUTE ANY OTHER DOCUMENTS NECESSARY TO EFFECTUATE THE ACTION TAKEN; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 04/05	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	8,000	0	8,000
BALANCE	0	8,000	0	8,000
FUND(S): GRANT FUND; GENERAL FUND				
COMMENTS: The grant contract provides revenue in the amount of \$8,000 for Police Officer Overtime. The Click It or Ticket program encourages increased compliance of seat belt usage through increased enforcement. Overtime costs will be paid through the Grant Fund, and benefits related to the overtime expenditures will be absorbed in the FY 2004-05 Police Department General Fund Budget.				
STRATEGIC PLAN GOAL: The increased enforcement of seat belt usage relates to the City's Goal of a "Premier City for Families" and "Safe, Efficient Travel".				
SUMMARY OF ITEM				
The State of Texas, acting by and through the Texas Department of Transportation, offered the City of Plano a grant totaling \$8,000, described as "Click It or Ticket" (CIOT) Selected Traffic Enforcement Program. The effective grant period is May 1, 2005 through September 30, 2005. The grant provides funding for overtime police officers to increase restraint usage and reduce traffic crash injuries and fatalities.				
List of Supporting Documents: Resolution, Grant Agreement			Other Departments, Boards, Commissions or Agencies	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, AUTHORIZING THE CITY OF PLANO TO PARTICIPATE IN AND RECEIVE FUNDING THROUGH THE TEXAS HIGHWAY TRAFFIC SAFETY PROGRAM FOR A "CLICK IT OR TICKET" PROJECT, TO BE CONDUCTED DURING MEMORIAL DAY HOLIDAY PERIOD; AUTHORIZING THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR TO EXECUTE ANY OTHER DOCUMENTS NECESSARY TO EFFECTUATE THE ACTION TAKEN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City was presented a proposed Agreement by and between City of Plano and the Texas Department of Transportation, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions are in the best interests of the citizens of Plano and thereof should be ratified.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things ratified.

Section II. The City Manager, or in his absence, an Executive Director, is hereby authorized to execute all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective from and after its passage.

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DULY PASSED AND APPROVED this the _____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



Click It or Ticket!
Traffic Safety Project Budget
(for Law Enforcement Projects)

Project Title: STEP - CIOT (Memorial Day Holiday)

Name of Subgrantee: City of Plano

Fiscal Year: 2005

(Round figures to nearest dollar)

Check here if this is a revised budget.

Date Revised:

Table with 3 columns: TxDOT, Other/State/Local, TOTAL

Budget Category I - Labor Costs

(100) Salaries

Overtime or Regular Time

Salary rates are estimated for budget purposes only. Reimbursements will be based on actual costs per employee in accordance with Subgrantee's payroll policy and salary rate.

List details:

A. Enforcement (overtime)

- 1. Officers/Deputies: 140.00 hrs. @ \$44.00 per hr.
2. Sergeants: 15.00 hrs. @ \$52.00 per hr.
3. Lieutenants: 10.00 hrs. @ \$58.00 per hr.

Table with 3 columns: TxDOT, Other/State/Local, TOTAL for enforcement items

B. PI&E Activities (overtime)

See Grant Instructions. 5.00 hrs. @ \$44.00 per hr.

Table with 3 columns: TxDOT, Other/State/Local, TOTAL for PI&E activities

C. Other (i.e., overtime staff, supervisory support, conducting surveys)

See Grant Instructions. Specify: supervisory support, conducting surveys 5.90 hrs. @ \$44.00 per hr.

Table with 3 columns: TxDOT, Other/State/Local, TOTAL for other activities

Total Salaries

Summary table for Total Salaries

(200) Fringe Benefits*

Specify fringe rates:

- A. Overtime: %
B. Part-Time: %
C. Regular Time: %

Table with 3 columns: TxDOT, Other/State/Local, TOTAL for fringe benefits

Total Fringe Benefits

Summary table for Total Fringe Benefits

I. Total Labor Costs (100 + 200)

Summary table for Total Labor Costs

Handwritten number 1-4

* Budget Detail Required: As an attachment to the budget, a justification and a detailed cost breakdown is required for all costs included for Fringe Benefits (200), Travel and Per Diem (300), Equipment (400), Supplies (500), Contractual Services (600), Other Miscellaneous (700), and Indirect Cost Rate (800)

Fiscal Year: 2005

Check here if this is a revised budget.

Date Revised: _____

(Round figures to nearest dollar)

Budget Category II – Other Direct Costs

(300) Travel*

Reimbursements will be in accordance with Subgrantee’s travel policy. Subgrantee must bill for actual travel expenses — not to exceed the limits reimbursable under state law.

A. Travel and Per Diem (includes conferences, training workshops, and other non-enforcement travel).....

B. Subgrantee Enforcement Vehicle Mileage:
Rates used only for budget estimate. Reimbursement will be made according to the approved subgrantee’s average cost per mile to operate patrol vehicles, not to exceed the applicable state mileage reimbursement rate as established by the Legislature in the travel provisions of the General Appropriations Act. Documentation of cost per mile is required prior to reimbursement.

_____ miles @ \$_____ per mile.....

Total Travel.....

(400) Equipment*.....

(500) Supplies*.....

(600) Contractual Services*.....

(700) Other Miscellaneous*

A. Registration fees (training, workshops, conferences, etc.).....

B. Public information & education (PI&E) materials.....

1. Educational items = \$_____ (eg.: brochures, bumper stickers, posters, fliers, etc.)

2. Promotional items = \$_____ (eg.: key chains, magnets, pencils, pens, mugs, etc.)

C. Other.....

Total Other Miscellaneous.....

II. Total Other Direct Costs (300 + 400 + 500 + 600 + 700).....

Budget Category III – Indirect Costs

(800) Indirect Cost Rate* (at _____%).....

Summary:

Total Labor Costs.....

Total Other Direct Costs.....

Total Indirect Costs.....

Grand Total (I+II+III).....

Fund Sources (Percent Share).....

	<u>TxDOT</u>	<u>Other/ State/Local</u>	<u>TOTAL</u>
A. Travel and Per Diem (includes conferences, training workshops, and other non-enforcement travel).....			0
B. Subgrantee Enforcement Vehicle Mileage: Rates used only for budget estimate. Reimbursement will be made according to the approved subgrantee’s average cost per mile to operate patrol vehicles, not to exceed the applicable state mileage reimbursement rate as established by the Legislature in the travel provisions of the General Appropriations Act. Documentation of cost per mile is required prior to reimbursement. _____ miles @ \$_____ per mile.....			0
Total Travel	0	0	0
(400) Equipment*			0
(500) Supplies*			0
(600) Contractual Services*			0
(700) Other Miscellaneous*			
A. Registration fees (training, workshops, conferences, etc.).....			0
B. Public information & education (PI&E) materials.....			0
1. Educational items = \$_____ (eg.: brochures, bumper stickers, posters, fliers, etc.)			
2. Promotional items = \$_____ (eg.: key chains, magnets, pencils, pens, mugs, etc.)			
C. Other.....			0
Total Other Miscellaneous	0	0	0
II. Total Other Direct Costs (300 + 400 + 500 + 600 + 700)	0	0	0
Budget Category III – Indirect Costs			
(800) Indirect Cost Rate* (at _____%).....			0
Summary:			
Total Labor Costs	8,000	0	8,000
Total Other Direct Costs	0	0	0
Total Indirect Costs	0	0	0
Grand Total (I+II+III)	8,000	0	8,000
Fund Sources (Percent Share)	100.00%	0.00%	

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*** Budget Detail Required:** As an attachment to the budget, a justification and a detailed cost breakdown is required for all costs included for Fringe Benefits (200), Travel and Per Diem (300), Equipment (400), Supplies (500), Contractual Services (600), Other Miscellaneous (700), and Indirect Cost Rate (800)

— For TxDOT Use Only —

Federal Pass Through

Misc. Contract Number: 585XXD6123

Grant Funds CFDA #20.600_

Charge Number: 05-04-04-B1-AM

State Grant Funds

Project Year: N/A

PIN (14 characters only): 17560006409000

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS

THE COUNTY OF TRAVIS

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department, and City of Plano, hereinafter called the Subgrantee, and becomes effective when fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n):

State Agency

Non-Profit Organization

Unit of Local Government

Educational Institution

Other (describe): _____

AUTHORITY: Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Plan for the following Fiscal Year(s) 2005.

Project Title: STEP - CIOT (Memorial Day Holiday)

Brief Project Description: To conduct a two week occupant protection enforcement effort during the Memorial Day Holiday period in order to increase restraint usage and reduce traffic crash injuries and fatalities.

Grant Period: The Grant becomes effective on May 1, 2005, or on the date of final signature of both parties, whichever is later, and ends on September 30, 2005 unless terminated or otherwise modified.

Maximum Amount Eligible for Reimbursement: \$8,000.

The following attachments are incorporated as indicated as a part of the Grant Agreement:

- Attachment A, Mailing Addresses
- Attachment B, General Terms and Conditions (TxDOT Form 1854)
- Attachment C, Project Description (TxDOT Form 2076)
- Attachment D, Action Plan (TxDOT Form 1852)
- Attachment E, Project Budget (TxDOT Form 2077 or 2077-LE)
- Attachment F, Operational Plan (TxDOT Form 2109) (for Selective Traffic Enforcement Program grants only)

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Project Title: STEP – CIOT (Memorial Day Holiday)

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

The signatory for the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into this agreement on behalf of the organization. At the time the signatory for the Subgrantee signs the Grant Agreement, she/he will sign and submit to the Department a letter designating signature authority by position title for grant-related documents other than the Grant Agreement or Grant Agreement amendments. These other grant-related documents will include, but not be limited to, the following: performance reports, final performance report and administrative evaluation report, Requests For Reimbursement (RFRs), and routine correspondence.

THE SUBGRANTEE

City of Plano

[Legal Name of Agency]

By _____

[Authorized Signature]

[Name]

[Title]

Date: _____

Under authority of Ordinance or Resolution
Number (for local governments):

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out orders, established policies or work programs approved and authorized by the Texas Transportation Commission.

By _____

District Engineer
Texas Department of Transportation
(For local project grants under \$100,000 or for grants of \$100,000 or more that are recommended for approval.)

Date: _____

By _____

Director, Traffic Operations Division
Texas Department of Transportation
(Not required for local project grants under \$100,000.)

Date: _____

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Project Title: STEP – CIOT (Memorial Day Holiday)

Mailing Addresses

For the purpose of this agreement, the following addresses shall be used to mail all required notices, reports, claims, and correspondence. (NOTE: For warrants (checks), the address indicated by the electronic mail code, which is the last three digits of the PIN on page 1 of this Grant Agreement, shall be used for disbursing payments. If that address is not where the Subgrantee wants warrants or checks to be sent, the Subgrantee needs to notify the Department of any appropriate changes.

For Subgrantee (Project Director):

Name: Chris Curd

Title: Sergeant

Organization:
City of Plano

Address: PO Box 860358

Plano TX 75086-0358

Phone: 972-205-8055

Fax: 972-208-8052

E-mail: christopherc@plano.gov

Note: Any change in the Subgrantee information in this Attachment A, Mailing Addresses, does not require an amendment to the Grant Agreement. However, the Subgrantee must submit a letter with the corrected information to the Department address below within 15 days of the change.

For Texas Department of Transportation:

Name: Pat Hickman

Title: TSS

Organization:
Texas Department of Transportation

Address: 4777 E. Hwy 80

Mesquite, TX 75150

Phone: 214-320-6235

Fax: 214-319-6568

E-mail: phickma@dot.state.tx.us

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Project Title: STEP – CIOT (Memorial Day Holiday)

**Texas Traffic Safety Program
GRANT AGREEMENT GENERAL TERMS AND CONDITIONS**

ARTICLE 1. COMPLIANCE WITH LAWS

The Subgrantee shall comply with all federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the Department with satisfactory proof of its compliance therewith.

ARTICLE 2. STANDARD ASSURANCES

The Subgrantee hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including 49 CFR, Part 18; 49 CFR, Part 19 (OMB Circular A-110); OMB Circular A-87; OMB Circular A-102; OMB Circular A-21; OMB Circular A-122; OMB Circular A-133; and the Traffic Safety Program Manual, as they relate to the application, acceptance, and use of federal or state funds for this project. Also, the Subgrantee assures and certifies that:

- A. It possesses legal authority to apply for the grant; and that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- B. It and its subcontractors will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and in accordance with that Act, no person shall discriminate, on the grounds of race, color, sex, national origin, age, religion, or disability.
- C. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended; 42 USC §§4601 et seq.; and United States Department of Transportation (USDOT) regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR, Part 24, which provide for fair and equitable treatment of persons displaced as a result of federal and federally assisted programs.
- D. It will comply with the provisions of the Hatch Political Activity Act, which limits the political activity of employees. (See also Article 25, Lobbying Certification.)
- E. It will comply with the federal Fair Labor Standards Act's minimum wage and overtime requirements for employees performing project work.
- F. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- G. It will give the Department the access to and the right to examine all records, books, papers, or documents related to this Grant Agreement.
- H. It will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements.

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Project Title: STEP – CIOT (Memorial Day Holiday)

- I. It recognizes that many federal and state laws imposing environmental and resource conservation requirements may apply to this Grant Agreement. Some, but not all, of the major federal laws that may affect the project include: the National Environmental Policy Act of 1969, as amended, 42 USC §§4321 et seq.; the Clean Air Act, as amended, 42 USC §§7401 et seq. and sections of 29 USC; the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 USC §§6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§9601 et seq. The Subgrantee also recognizes that the U.S. Environmental Protection Agency, USDOT, and other federal agencies have issued, and in the future are expected to issue, regulation, guidelines, standards, orders, directives, or other requirements that may affect this Project. Thus, it agrees to comply, and assures the compliance of each contractor and each subcontractor, with any such federal requirements as the federal government may now or in the future promulgate.
- J. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 USC §4012a(a). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase “federal financial assistance” includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.
- K. It will assist the Department in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470 et seq.), Executive Order 11593, and the Antiquities Code of Texas (National Resources Code, Chapter 191).
- L. It will comply with Chapter 573 of the Texas Government Code by ensuring that no officer, employee, or member of the Subgrantee’s governing board or the Subgrantee’s subcontractors shall vote or confirm the employment of any person related within the second degree of affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person described in Section 573.062 of the Texas Government Code.
- M. It will ensure that all information collected, assembled, or maintained by the applicant relative to this project shall be available to the public during normal business hours in compliance with Chapter 552 of the Texas Government Code, unless otherwise expressly provided by law.
- N. If applicable, it will comply with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

ARTICLE 3. COMPENSATION

- A. The method of payment for this Agreement will be based on actual costs incurred up to and not to exceed the limits specified in Attachment E, Traffic Safety Project Budget. The amount included in the Project Budget will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B hereunder. If Attachment E, Traffic Safety Project Budget, specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.

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- B. All payments made hereunder will be made in accordance with Attachment E, Traffic Safety Project Budget. The Subgrantee's expenditures may overrun a budget category in the approved Project Budget without a grant (budget) amendment, as long as the overrun does not exceed five (5) percent of the maximum amount eligible for reimbursement in the budget for the covered fiscal year and there is also a commensurate underrun elsewhere in the Project Budget. The Subgrantee must provide written notification to the Department of an overrun of five (5) percent or less in order for there to be approval of the Request for Reimbursement. This notification must be in the form of an attachment to the Request for Reimbursement that covers the period of the overrun. This attachment must indicate the amount, the percent change, and the specific reason(s) for the overrun. Any overrun of more than five (5) percent of the amount eligible for reimbursement in the budget for the covered fiscal year requires an amendment of this Grant Agreement. The maximum amount eligible for reimbursement shall not be increased above the total Department (TxDOT) amount in the approved Project Budget as a result of exceeding a budget category without a written grant amendment.
- C. To be eligible for reimbursement under this Agreement, a cost must be incurred in accordance with Attachment E, Traffic Safety Project Budget, within the time frame specified in Grant Period on page 1 of this Grant Agreement, attributable to work covered by this Agreement, and which has been completed in a manner satisfactory and acceptable to the Department.
- D. Federal funds cannot supplant (replace) funds from any other sources. The term "supplanting," refers to the use of federal funds to support personnel or an activity already supported by local or state funds.
- E. Payment of costs incurred under this Agreement is further governed by one of the following cost principles, as appropriate, outlined in the Federal Office of Management and Budget (OMB) Circulars:
- A-21, Cost Principles for Institutions of Higher Education;
 - A-87, Cost Principles for State, Local, and Indian Tribal Governments; or,
 - A-122, Cost Principles for Nonprofit Organizations.
- F. The Subgrantee agrees to submit monthly or quarterly Requests for Reimbursement, as designated in Attachment D, Action Plan, within thirty (30) days after the end of the billing period. The Subgrantee will use billing forms acceptable to the Department. The original Request for Reimbursement, with the appropriate backup documentation, must be submitted to the Department address shown on Attachment A, Mailing Addresses, of this Agreement. In addition, a copy of the Request for Reimbursement and appropriate backup documentation, plus three (3) copies of the Request for Reimbursement without backup documentation, must be submitted to this same address.
- G. The Subgrantee agrees to submit the final Request for Reimbursement under this Agreement within forty-five (45) days of the end of the grant period.
- H. The Department will exercise good faith to make payments within thirty (30) days of receipt of properly prepared and documented Requests for Reimbursement. Payments, however, are contingent upon the availability of appropriated funds.
- I. Project agreements supported with federal funds are limited to the length of this Grant Period, which is specified on page 1 of this Grant Agreement. If the Department determines that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the initial Agreement period. Preference for funding will be given to those projects for which the Subgrantee has assumed some cost sharing, those which propose to assume the largest percentage of subsequent project costs, and which have demonstrated performance that is acceptable to the Department.

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ARTICLE 4. LIMITATION OF LIABILITY

Payment of costs incurred hereunder is contingent upon the availability of funds. If at any time during this Grant Period, the Department determines that there is insufficient funding to continue the project, the Department shall so notify the Subgrantee, giving notice of intent to terminate this Agreement, as specified in Article 11 of this Agreement. If at the end of a federal fiscal year, the Department determines that there is sufficient funding and performance to continue the project, the Department may so notify the Subgrantee to continue this agreement.

ARTICLE 5. AMENDMENTS

This Agreement may be amended prior to its expiration by mutual written consent of both parties, utilizing the Grant Agreement Amendment designated by the Department. Any amendment must be executed by the parties within the Grant Period, as specified on page 1 of this Grant Agreement.

ARTICLE 6. ADDITIONAL WORK AND CHANGES IN WORK

If the Subgrantee is of the opinion that any assigned work is beyond the scope of this Agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing. If the Department finds that such work does constitute additional work, the Department shall so advise the Subgrantee and a written amendment to this Agreement will be executed according to Article 5, Amendments, to provide compensation for doing this work on the same basis as the original work. If performance of the additional work will cause the maximum amount payable to be exceeded, the work will not be performed before a written grant amendment is executed.

If the Subgrantee has submitted work in accordance with the terms of this Agreement but the Department requests changes to the completed work or parts thereof which involve changes to the original scope of services or character of work under this Agreement, the Subgrantee shall make such revisions as requested and directed by the Department. This will be considered as additional work and will be paid for as specified in this Article.

If the Subgrantee submits work that does not comply with the terms of this Agreement, the Department shall instruct the Subgrantee to make such revisions as are necessary to bring the work into compliance with this Agreement. No additional compensation shall be paid for this work.

The Subgrantee shall make revisions to the work authorized in this Agreement, which are necessary to correct errors or omissions appearing therein, when required to do so by the Department. No additional compensation shall be paid for this work.

The Department shall not be responsible for actions by the Subgrantee or any costs incurred by the Subgrantee relating to additional work not directly associated with or prior to the execution of an amendment.

ARTICLE 7. REPORTING AND MONITORING

Not later than ten (10) days after the end of each reporting period, as designated in Attachment D, Action Plan, the Subgrantee shall submit a performance report using forms provided or approved by the Department. The performance report will include, as a minimum: (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives and performance measures were not met, if appropriate, and (3) other pertinent information, including, when appropriate, an analysis and explanation of cost underruns, overruns, or high unit costs.

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The Subgrantee shall submit the Final Performance Report and Administrative Evaluation Report within thirty (30) days after completion of the grant.

The Subgrantee shall promptly advise the Department in writing of events that will have a significant impact upon this Agreement, including:

- A. Problems, delays, or adverse conditions, including a change of project director or other changes in Subgrantee personnel, that will materially affect the ability to attain objectives and performance measures, prevent the meeting of time schedules and objectives, or preclude the attainment of project objectives or performance measures by the established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or federal assistance needed to resolve the situation.
- B. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or achieving greater performance measure output than originally projected.

ARTICLE 8. RECORDS

The Subgrantee agrees to maintain all reports, documents, papers, accounting records, books, and other evidence pertaining to costs incurred and work performed hereunder, (hereinafter called the records), and shall make such records available at its office for the time period authorized within the Grant Period, as specified on page 1 of this Grant Agreement. The Subgrantee further agrees to retain said records for four (4) years from the date of final payment under this Agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

Duly authorized representatives of the Department, the USDOT, the Office of the Inspector General, Texas State Auditor, and the Comptroller General shall have access to the records. This right of access is not limited to the four (4) year period but shall last as long as the records are retained.

ARTICLE 9. INDEMNIFICATION

To the extent permitted by law, the Subgrantee, if other than a government entity, shall indemnify, hold, and save harmless the Department and its officers and employees from all claims and liability due to the acts or omissions of the Subgrantee, its agents, or employees. The Subgrantee also agrees, to the extent permitted by law, to indemnify, hold, and save harmless the Department from any and all expenses, including but not limited to attorney fees, all court costs and awards for damages incurred by the Department in litigation or otherwise resisting such claims or liabilities as a result of any activities of the Subgrantee, its agents, or employees.

Further, to the extent permitted by law, the Subgrantee, if other than a government entity, agrees to protect, indemnify, and save harmless the Department from and against all claims, demands, and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries or death to such employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee.

If the Subgrantee is a government entity, both parties to this Agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

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ARTICLE 10. DISPUTES AND REMEDIES

This Agreement supercedes any prior oral or written agreements. If a conflict arises between this Agreement and the Traffic Safety Program Manual, this Agreement shall govern.

The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement made by the Subgrantee in support of Agreement work.

Disputes concerning performance or payment shall be submitted to the Department for settlement, with the Executive Director acting as referee.

ARTICLE 11. TERMINATION

This Agreement shall remain in effect until the Subgrantee has satisfactorily completed all services and obligations described herein and these have been accepted by the Department, unless:

- This Agreement is terminated in writing with the mutual consent of both parties; or
- There is a written thirty (30) day notice by either party; or
- The Department determines that the performance of the project is not in the best interest of the Department and informs the Subgrantee that the project is terminated immediately.

The Department shall compensate the Subgrantee for only those eligible expenses incurred during the Grant Period specified on page 1 of this Grant Agreement which are directly attributable to the completed portion of the work covered by this Agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur nor be reimbursed for any new obligations after the effective date of termination.

ARTICLE 12. INSPECTION OF WORK

The Department and, when federal funds are involved, the US DOT, or any authorized representative thereof, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed.

If any inspection or evaluation is made on the premises of the Subgrantee or its subcontractor, the Subgrantee shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

ARTICLE 13. AUDIT

The Subgrantee shall comply with the requirements of the Single Audit Act of 1984, Public Law (PL) 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133, "Audits of States, Local Governments, and Other Non-Profit Organizations."

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

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ARTICLE 14. SUBCONTRACTS

The Subgrantee shall not enter into any subcontract with individuals or organizations not a part of the Subgrantee's organization without prior written concurrence with the subcontract by the Department. Subcontracts shall contain all required provisions of this Agreement. No subcontract will relieve the Subgrantee of its responsibility under this Agreement.

ARTICLE 15. GRATUITIES

Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefit, gift, or favor from any person doing business with or who, reasonably speaking, may do business with the Department under this Agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

Any person doing business with or who reasonably speaking may do business with the Department under this Agreement may not make any offer of benefits, gifts, or favors to Department employees, except as mentioned here above. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this Agreement.

ARTICLE 16. NONCOLLUSION

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Subgrantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, contingent fee, or gift.

ARTICLE 17. CONFLICT OF INTEREST

The Subgrantee represents that it or its employees have no conflict of interest that would in any way interfere with its or its employees' performance or which in any way conflicts with the interests of the Department. The Subgrantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the Department's interests.

ARTICLE 18. SUBGRANTEE'S RESOURCES

The Subgrantee certifies that it presently has adequate qualified personnel in its employment to perform the work required under this Agreement, or will be able to obtain such personnel from sources other than the Department.

All employees of the Subgrantee shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, supplies, and other resources required to perform the work.

ARTICLE 19. PROCUREMENT AND PROPERTY MANAGEMENT

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The Subgrantee shall establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this Agreement in accordance with its own property management procedures, provided that the procedures are not in conflict with the Department’s property management procedures or property management standards and federal standards, as appropriate, in:

- 49 CFR, Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” or
- 49 CFR, Part 19 (OMB Circular A-110), “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.”

ARTICLE 20. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Upon completion or termination of this Grant Agreement, whether for cause or at the convenience of the parties hereto, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee, and equipment and supplies purchased with grant funds shall, at the option of the Department, become the property of the Department. All sketches, photographs, calculations, and other data prepared under this Agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

- A. Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any data bases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.
- B. *All rights to Department.* The Department shall own all of the rights (including copyrights, copyright applications, copyright renewals, and copyright extensions), title and interests in and to all data, and other information developed under this contract and versions thereof unless otherwise agreed to in writing that there will be joint ownership.
- C. *All rights to Subgrantee.* Classes and materials initially developed by the Subgrantee without any type of funding or resource assistance from the Department remain the Subgrantee’s intellectual property. For these classes and materials, the Department payment is limited to payment for attendance at classes.

ARTICLE 21. SUCCESSORS AND ASSIGNS

The Department and the Subgrantee each binds itself, its successors, executors, assigns, and administrators to the other party to this Agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this Agreement. The Subgrantee shall not assign, sublet, or transfer interest and obligations in this Agreement without written consent of the Department.

ARTICLE 22. CIVIL RIGHTS COMPLIANCE

- A. Compliance with regulations: The Subgrantee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the USDOT: 49 CFR, Part 21; 23 CFR, Subchapter C; and 41 CFR, Parts 60-74, as they may be amended periodically (hereinafter referred to as the Regulations). The Subgrantee agrees to comply with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 and as supplemented by the U.S. Department of Labor regulations (41 CFR, Part 60).

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- B. **Nondiscrimination:** The Subgrantee, with regard to the work performed during the period of this Agreement, shall not discriminate on the grounds of race, color, sex, national origin, age, religion, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- C. **Solicitations for subcontracts, including procurement of materials and equipment:** In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subgrantee of the Subgrantee's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, religion, or disability.
- D. **Information and reports:** The Subgrantee shall provide all information and reports required by the regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the USDOT to be pertinent to ascertain compliance with such regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall so certify to the Department or the US DOT, whichever is appropriate, and shall set forth what efforts the Subgrantee has made to obtain the requested information.
- E. **Sanctions for noncompliance:** In the event of the Subgrantee's noncompliance with the nondiscrimination provision of this Agreement, the Department shall impose such sanctions as it or the US DOT may determine to be appropriate.
- F. **Incorporation of provisions:** The Subgrantee shall include the provisions of paragraphs A. through E. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives. The Subgrantee shall take such action with respect to any subcontract or procurement as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. However, in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into litigation to protect the interests of the state; and in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the Department and the USDOT that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, shall have the opportunity to participate in the performance of agreements financed in whole or in part with federal funds. Consequently, the Disadvantaged Business Enterprise requirements of 49 CFR Part 26, apply to this Agreement as follows:

- The Subgrantee agrees to insure that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, have the opportunity to participate in the performance of agreements and subcontracts financed in whole or in part with federal funds. In this regard, the Subgrantee shall make good faith efforts in accordance with 49 CFR Part 26, to insure that Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements and subcontracts.
- The Subgrantee and any subcontractor shall not discriminate on the basis of race, color, sex, national origin, or disability in the award and performance of agreements funded in whole or in part with federal funds.

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These requirements shall be included in any subcontract.

Failure to carry out the requirements set forth above shall constitute a breach of this Agreement and, after the notification of the Department, may result in termination of this Agreement by the Department, or other such remedy as the Department deems appropriate.

ARTICLE 24. DEBARMENT/SUSPENSION

- A. The Subgrantee certifies, to the best of its knowledge and belief, that it and its principals:
 - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - 2. Have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local public transaction or contract under a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3. Are not presently indicted or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in paragraph A. 2. of this Article; and
 - 4. Have not, within a three (3) year period preceding this Agreement, had one or more federal, state, or local public transactions terminated for cause or default.
- B. Where the Subgrantee is unable to certify to any of the statements in this Article, such Subgrantee shall attach an explanation to this Agreement.
- C. The Subgrantee is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension.
- D. The Subgrantee shall require any party to a subcontract or purchase order awarded under this Grant Agreement to certify its eligibility to receive federal grant funds, and, when requested by the Department, to furnish a copy of the certification.

ARTICLE 25. LOBBYING CERTIFICATION

The Subgrantee certifies to the best of his or her knowledge and belief that:

- A. No federally appropriated funds have been paid or will be paid by or on behalf of the Subgrantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the party to this Agreement shall

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complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 26. CHILD SUPPORT STATEMENT

Unless the Subgrantee is a governmental or non-profit entity, the Subgrantee certifies that it either will go to the Department's website noted below and complete the Child Support Statement or already has a Child Support Statement on file with the Department. The Subgrantee is responsible for keeping the Child Support Statement current and on file with that office for the duration of this Agreement period. The Subgrantee further certifies that the Child Support Statement on file contains the child support information for the individuals or business entities named in this grant. Under Section 231.006, Family Code, the Subgrantee certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified grant or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

The form for the Child Support Statement is available on the Internet at:
<http://www.dot.state.tx.us/cso/default.htm>.

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Project Title: STEP - CIOT
Name of Subgrantee: City of Plano

Traffic Safety Project Description

I. OBJECTIVES & PERFORMANCE MEASURES

The Objectives of this grant are to accomplish the following by September 30, 2005:

To increase safety belt use among drivers, front seat passengers, and child passengers during the Memorial Day holiday period and in locations as defined in Attachment F, Operational Plan.

Objectives/Performance Measures	Number
A. Number and type citations to be <u>issued under STEP</u>	
1. Safety belt citations to be issued during the Memorial Day Holiday Click It or Ticket (CIOT) campaign.	475
2. Child safety seat citations to be issued during the Memorial Day Holiday CIOT campaign.	20
B. Number of STEP – CIOT enforcement hours worked	165
C. Increase the safety belt usage rate among drivers and front seat passengers during the Memorial Day Holiday CIOT campaign, between pre & post survey results, by at least the following percentage points	2
D. Complete administrative and general grant requirements as defined in the Action Plan, Attachment D.	
1. Submit the following number of Performance Reports, including the Final Performance Report and Administrative Evaluation Report.	2
2. Submit the following number of Requests for Reimbursement	2
E. Support grant enforcement efforts with public information and education (PI&E) as defined in the Action Plan, Attachment D.	
1. Conduct a minimum of one (1) presentation for the Memorial Day Holiday CIOT campaign.	1
2. Conduct a minimum of two (2) media exposures for the Memorial Day Holiday CIOT campaign (e.g., news conferences, news releases and interviews).	2
3. Conduct a minimum of one (1) community event.	1
4. Obtain and distribute the following number of public information and education materials.	1500

NOTE:

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder.

1-20

Subgrantee: City of Plano

II. RESPONSIBILITIES OF THE SUBGRANTEE:

- A. Carry out the objectives and performance measures of this grant by implementing all activities in the Action Plan, Attachment D.
- B. The Objective Performance Measures shall be included in each Performance Report and summarized in the Final Performance Report and Administrative Evaluation Report.
- C. Submit all required reports to the Department fully completed with the most current information, and within the required times, as defined in Article 3 and Article 7 of the General Terms and Conditions, Attachment B. This includes reporting to the Department on progress, achievements, and problems in periodic performance reports. All required documents must be accurate. Inaccurate documents will delay any related Requests for Reimbursement.
- D. A Final Performance Report and Administrative Evaluation Report summarizing all activities and accomplishments will be submitted on Department approved forms no later than thirty (30) days after the grant ending date (Due date: October 30, 2005).
- E. Attend meetings according to the following:
 1. The Subgrantee will arrange for meetings with the Department as indicated in the Action Plan to present status of activities, discuss problems and schedule for the following quarter's work.
 2. The project director or other qualified person will be available to represent the Subgrantee at meetings requested by the Department.
- F. When applicable, all newly developed public information and education (PI&E) materials must be submitted to the Department for written approval prior to final production. Contact the Department regarding PI&E procedures.
- G. **No out of state travel is allowed under this grant agreement.**
- H. Maintain verification that all expenses, including wages or salaries, for which reimbursement is requested is for work exclusively related to this project.
- I. Ensure that this grant will in no way supplant (replace) funds from other sources. Supplanting refers to the use of federal funds to support personnel or any activity already supported by local or state funds.
- J. The Subgrantee should have a safety belt use policy. If the Subgrantee does not have a safety belt use policy in place, a policy should be implemented during the grant year.
- K. Carry out the objectives of this grant by implementing the Operational Plan.
- L. Ensure that each officer working on the STEP project will complete an officer's daily report form. The form should include: name, date, badge/identification number, type of grant worked, grant site number, mileage if applicable (including starting and ending mileage), hours worked, type of citation/arrest issued, officer and supervisor signatures.
- M. Ensure that no officer above the rank of Lieutenant (or equivalent title) will be reimbursed for enforcement duty.
- N. Support grants enforcement efforts with Public Information and Education (PI&E). Salaries being claimed for PI&E activities must be included in the budget.
- O. Subgrantees with a traffic unit will utilize traffic personnel for this grant, unless such personnel are unavailable for assignment.

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Subgrantee: City of Plano

- P. If an officer makes a STEP-related arrest during the shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest.
- Q. The Subgrantee must enter all Performance and Annex Report data into the Buckle Up Texas Website (www.buckleuptexas.com) before submitting hard copy reports to the Department. Printed versions of the Website reports are acceptable versions for hard copy submissions.
- R. **The Subgrantee must utilize the Department's Occupant Protection Survey Tools and Worksheets to determine their survey results. These documents can be found in the Buckle Up Texas Website (www.buckleuptexas.com).** The pre and post-observational surveys for the cities of Houston, Dallas, San Antonio, Austin, El Paso, Fort Worth, Arlington, Corpus Christi, Lubbock and Garland will be conducted by the Texas Transportation Institute (TTI).
- S. Submit Performance and Annex Reports to the Department by June 15, 2005.

III. RESPONSIBILITIES OF THE DEPARTMENT:

- A. Monitor the Subgrantee's compliance with the performance obligations and fiscal requirements of this Grant Agreement using appropriate and necessary monitoring and inspections, including but not limited to:
 - 1. Review of periodic reports
 - 2. Physical inspection of project records
 - 3. Telephone conversations
 - 4. E-mails and letters
 - 5. Meetings
- B. Provide program management and technical assistance.
- C. Attend appropriate meetings.
- D. Reimburse the Subgrantee for all eligible costs as defined in the Traffic Safety Project Budget, Attachment E. Requests for Reimbursement will be processed up to the maximum amount payable as indicated on the cover page of the Grant Agreement.
- E. Perform an administrative review of the project at the close of the grant period to include a review of adherence to the Action Plan, Attachment D, the Traffic Safety Project Budget, Attachment E and attainment of project objectives.



Form 1852 (rev. 3/18/2003)

CIOT ACTION PLAN FY 05

Attachment D

PROJECT TITLE: STEP - CIOT

SUBGRANTEE: City of Plano

OBJECTIVE: To complete administrative and general grant requirements by 9/30/05, as defined below.

KEY:
 p = planned activity
 c = completed activity
 r = revised

ACTIVITY	RESPONSIBLE	PROJECT MONTH													
		OC	NO	DE	JA	FE	MR	AP	MY	JN	JL	AU	SE	OC	NO
1. Submit letter regarding signature authority.	Subgrantee								p						
2. Submit operational cost per vehicle mile (if applicable).	Subgrantee								p						
3. Hold Grant delivery meeting.	Department								p						
4. Submit Performance Reports	Subgrantee									p					
5. Submit Requests for Reimbursement.	Subgrantee										p				p
6. Submit Final Performance Report and Administrative Evaluation Report	Subgrantee														p
7. Conduct Monitoring	Department														
8. Conduct Enforcement Efforts	Subgrantee									p					

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Form 1852 (rev. 3/18/2003)

CIOT ACTION PLAN FY 05

Attachment D

PROJECT TITLE: STEP - CIOT

SUBGRANTEE: City of Plano

OBJECTIVE: To support grant efforts with a public information and education (PI&E) program by 9/30/05, as defined below:

KEY:
 p = planned activity
 c = completed activity
 r = revised

ACTIVITY	RESPONSIBLE	PROJECT MONTH													
		OC	NO	DE	JA	FE	MR	AP	MY	JN	JL	AU	SE	OC	NO
Modify these activities as appropriate:															
1. Determine quantities of materials needed.	Subgrantee														
2. Obtain PI&E materials from the Department	Subgrantee														
3. Maintain records of all PI & E material received/distributed.	Subgrantee														
4. Conduct or participate in news conference(s)	Subgrantee														
5. Issue news release(s).	Subgrantee														
6. Conduct presentations.	Subgrantee														
7. Participate in community events (e.g., health or safety fairs, booths).	Subgrantee														

TRAFFIC SAFETY OPERATIONAL PLAN

FY05 Memorial Day Holiday CIOT STEP

SITE DESCRIPTION	Enforcement Period
1. Occupant Protection Jurisdiction wide (Daylight hours)	Memorial Day Holiday May 23 – June 5, 2005

FY 05 Memorial Day Holiday CIOT STEP Schedule			
Pre-surveys From date of grant execution through May 17th	Pre-Media Campaign May 18 - May 22	Enforcement Blitz May 23 - June 5	Post-surveys June 6 - June 10
			Post-Media Campaign June 11 - June 15

Description of Activities

Pre-Surveys (From date of grant execution through May 17th)

Prior to conducting any wave enforcement activity, agencies must conduct pre-observational surveys to establish safety belt usage rates. The cities of Houston, Dallas, San Antonio, Austin, El Paso, Fort Worth, Arlington, Corpus Christi, Lubbock and Garland will have their surveys conducted by the Texas Transportation Institute (TTI). All other agencies must conduct their own pre-observational surveys using the Texas Department of Transportation's (TxDOT) survey protocol and instructions that can be found at buckleuptexas.com under the "Survey Worksheet and Tools" field.

Pre-Media Campaign (5/18 – 5/22)

Conduct local media events immediately before the enforcement effort to maximize the visibility of enforcement to the public. These media events tell the public when, where, how and why the safety belt laws are being enforced. Media will emphasize the special target groups of each wave effort, i.e. CIOT.

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Enforcement Blitz (5/23 – 6/5)

Intensify enforcement through an overtime STEP that places primary emphasis on increasing the number of citations for non-use of occupant restraints during the peak holiday traffic.

Post-surveys (6/6 – 6/10)

Conduct post-observational surveys to determine safety belt usage. Measure the impact of the media/enforcement effort. The cities of Houston, Dallas, San Antonio, Austin, El Paso, Fort Worth, Arlington, Corpus Christi, Lubbock and Garland will have their surveys conducted by the Texas Transportation Institute (TTI). All other agencies must conduct their own pre-observational surveys using the Texas Department of Transportation's (TxDOT) survey protocol and instructions that can be found at buckleuptexas.com under the "Survey Worksheet and Tools" field.

Post-media Campaign (6/11 – 6/15)

Conduct local media events to tell the public why the safety belt laws are important and the results of the wave.

Note: The Post-media Campaign may begin immediately after the post observational surveys are conducted.



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal <i>DW</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary	Initials	Date	
Department Head	Elaine Bealke	Executive Director		
Dept Signature:	<i>Elaine Bealke</i>	City Manager	<i>JM 5/10/05</i>	
Agenda Coordinator (include phone #):		Di Zucco- X7551		
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REVISING SECTION 2-376 MEMBERS, OF ARTICLE XXII, PLANO TRANSITION AND REVITALIZATION COMMISSION, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS TO REVISE REFERENCE TO MEMBERSHIP REQUIREMENTS AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
Following discussion at the April 25, 2005 meeting regarding the difficulty in filling some positions, the City Council directed Staff to prepare an ordinance revising membership requirements for the Plano Transition and Revitalization Commission to allow for more flexibility in the appointment of those with experience from the Plano Chamber of Commerce, Plano Economic Development Board, City of Plano Planning and Zoning Commission and City of Plano Community Relations Commission.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REVISING SECTION 2-376, MEMBERS, OF ARTICLE XXII, PLANO TRANSITION AND REVITALIZATION COMMISSION, OF CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS TO REVISE REFERENCE TO MEMBERSHIP REQUIREMENTS AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on June 26, 2000, by Ordinance No. 2000-6-25, the City Council of the City of Plano created the Plano Transition and Revitalization Commission and provided for appointment, removal and terms of office of members, as well as for meetings and duties of the Commission; and

WHEREAS, Ordinance No. 2000-6-25 was codified as Section 2-376, Members, of Article XXII, Plano Transition and Revitalization Commission of Chapter 2, Administration, of the Code of Ordinances of the City of Plano; and

WHEREAS, the City Council now hereby finds and determines that, in order to provide flexibility when appointing members, it is necessary to amend Section 2-376 to allow for the appointment of those who may have recommended and valuable background experience rather than requiring it.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section 2-376, Members, Article XXII, Plano Transition and Revitalization Commission of Chapter 2, Administration, of the Code of Ordinances of the City of Plano, Texas, is hereby revised to read in its entirety as follows:

“Sec. 2-376 Members.

The Plano Transition and Revitalization Commission shall consist of eight (8) members, each of whom shall be appointed by the City Council. Council should consider appointing at least one member with current or prior experience from each of the following groups:

- (1) Plano Chamber of Commerce;
- (2) Plano Economic Development Board;
- (3) City of Plano Planning and Zoning Commission; and
- (4) City of Plano Community Relations Commission.

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Section II. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section IV. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED THIS THE _____ DAY OF _____, 2005.

PAT EVANS, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	05/09/05	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering	Initials	Date	
Department Head	Alan Upchurch	Executive Director	5/12/05	
Dept Signature:	<i>Alan Upchurch</i>	City Manager	5/21/05	
Agenda Coordinator (include phone #):		I. Pegues 7198		
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
An ordinance of the City of Plano, Texas, amending Section 12-101 (Prohibited On Certain Streets At All Times) of Article V (Stopping, Standing, and Parking), of Chapter 12 (Motor vehicles and traffic) of the City of Plano Code of Ordinances to prohibit stopping, standing, or parking of motor vehicles along both sides of Cloverhaven Way between Bright Star Way and Los Rios Boulevard and along the west side of Cloverhaven Way between Bright Star Way and a point eighty-five (85) feet north of Bright Star Way within the city limits of the City of Plano; declaring it unlawful and a Class C misdemeanor to stop, stand, or park motor vehicles in said sections of Cloverhaven Way within the limits herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
Cloverhaven Way is being extended to connect to Los Rios Boulevard. The road is undivided between Los Rios Boulevard and Bright Star Way and parked vehicles on either side of the roadway in this section will prohibit traffic flow to one direction at a time. At Bright Star Way traffic controls are needed in front of 6901 Cloverhaven Way to reduce the possibility of vehicles traveling in the wrong direction in a traffic lane. The installation of the needed traffic controls will require that vehicles be prohibited from stopping, standing, or parking in front of this residence. This corner residence has on-street parking available for use on the side street Bright Star Way. The resident has been informed of both the proposed parking restriction in front of the home and the date for City Council consideration. The Transportation Division recommends that City Council enact stopping, standing or parking restrictions in the specified portions of Cloverhaven Way in order to provide for the safety of the general public within the area.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Map				

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SECTION 12-101 (PROHIBITED ON CERTAIN STREETS AT ALL TIMES) OF ARTICLE V (STOPPING, STANDING, AND PARKING), OF CHAPTER 12 (MOTOR VEHICLES AND TRAFFIC) OF THE CITY OF PLANO CODE OF ORDINANCES TO PROHIBIT STOPPING, STANDING, OR PARKING OF MOTOR VEHICLES ALONG BOTH SIDES OF CLOVERHAVEN WAY BETWEEN BRIGHT STAR WAY AND LOS RIOS BOULEVARD AND ALONG THE WEST SIDE OF CLOVERHAVEN WAY BETWEEN BRIGHT STAR WAY AND A POINT EIGHTY-FIVE (85) FEET NORTH OF BRIGHT STAR WAY WITHIN THE CITY LIMITS OF THE CITY OF PLANO; DECLARING IT UNLAWFUL AND A CLASS C MISDEMEANOR TO STOP, STAND, OR PARK MOTOR VEHICLES IN SAID SECTIONS OF CLOVERHAVEN WAY WITHIN THE LIMITS HEREIN DEFINED; PROVIDING A FINE FOR CRIMINAL PENALTIES NOT TO EXCEED \$200.00 FOR EACH OFFENSE; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, Cloverhaven Way is a Type F roadway from Chaparral Road south to Los Rios Boulevard, City of Plano, Collin County, Texas; and

WHEREAS, Cloverhaven Way transitions from a sixty (60) foot divided roadway to a twenty-two (22) foot wide undivided roadway from Bright Star Way south to Los Rios Boulevard; and

WHEREAS, maintaining unimpeded two-way traffic flow is necessary for the safe and efficient flow of traffic on Cloverhaven Way; and

WHEREAS, McCall Elementary School is being constructed on Cloverhaven Way between Mosswood Drive and Marsalis Lane and the opening of the this new school along with the connection of Cloverhaven Way to Los Rios Boulevard is expected to generate significant changes in traffic volumes and patterns along Cloverhaven Way; and

WHEREAS, due to the transition of Cloverhaven Way from a sixty (60) foot divided roadway north of Bright Star Way to a twenty-two (22) foot undivided roadway south of Bright Star Way, the City must install certain traffic markings north of the intersection of Cloverhaven Way and Bright Star Way to guide traffic through the transition and to find the appropriate lane of traffic; and

WHEREAS, the Transportation Engineering Division recommends that the City Council enact stopping, standing, or parking restrictions in the specified portions of Cloverhaven Way; and

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WHEREAS, the City Council of the City of Plano finds it necessary to prohibit the stopping, standing, or parking of motor vehicles along and upon the specified portions of Cloverhaven Way within the city limits of the City of Plano in order to provide for the safety of the general public within the area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. It shall be unlawful for any person to stop, stand, or park a motor vehicle along Cloverhaven Way described herein, except when necessary to avoid conflict with other traffic or in compliance with law or directions of a police officer.

Section II. Section 12-101 (Prohibited on Certain Streets at All Times) of Article V (Stopping, Standing, and Parking) of Chapter 12 (Motor Vehicles and Traffic) of the City of Plano Code of Ordinances, is hereby amended by adding the following sub-section:

“Cloverhaven Way:

- (1) Along both sides between Bright Star Way and Los Rios Boulevard.
- (2) Along the west side between Bright Star Way and a point eighty-five feet (85') north of Bright Star Way.”

Section III. The Traffic Engineer of Plano is hereby authorized and directed to cause placement of traffic control signs on the portions of the roadways described herein, and such signs shall give notice to all persons of the prohibition against stopping, standing, or parking in this area.

Section IV. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. The repeal of any ordinance or part of an ordinance affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this Ordinance.

Section VII. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed TWO HUNDRED AND NO/100 DOLLARS (\$200.00) for each offense. Each and every violation shall be deemed to constitute a separate offense.

Section VIII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this ____ day of _____, 2005.

Pat Evans, MAYOR

ATTEST:

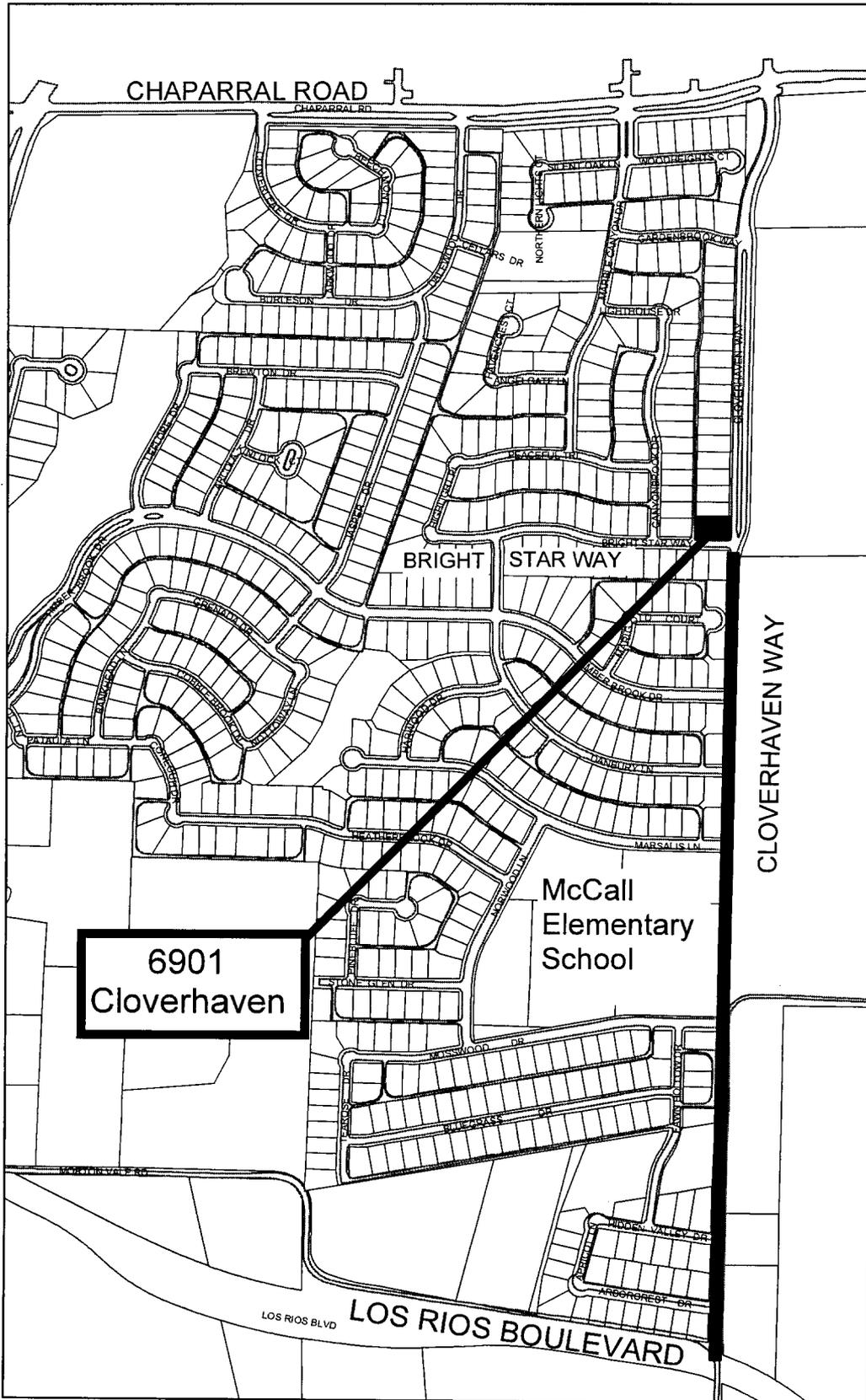
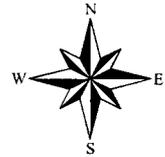
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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**Proposed Parking Restriction - Cloverhaven Way
Los Rios Boulevard to Bright Star Way (both sides)
and 6901 Cloverhaven Way (west side)**



Proposed No Stopping,
Standing, or Parking
At All Times

May 2005



TRANSPORTATION
ENGINEERING
DIVISION

R-5

DATE: April 19, 2005
TO: Honorable Mayor & City Council
FROM: Laura Williamson, Chairman, Planning & Zoning Commission **TE**
SUBJECT: Results of Planning & Zoning Commission Meeting of April 18, 2005

**PUBLIC HEARING
ZONING CASE 2005-08
APPLICANT: CITY OF PLANO**

DESCRIPTION:

Request to amend Section 3.1100 (Off-Street Parking and Loading) and Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance regarding storm water infrastructure improvements intended to improve storm water quantity and quality.

APPROVED: 8-0 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) to read as follows:

"(1) Unless noted otherwise in this section, all required parking spaces and loading areas, together with driveways and maneuvering aisles, and additional parking areas which are routinely and customarily used on a daily or weekly basis shall be paved with a concrete or asphalt surface. Driveways and maneuvering aisles associated with single-family residences, farms, dairies, and ranches within the Agricultural and Estate Development zoning districts may be gravel construction. No minimum paving standard is required for parking areas for special events and seasonal sporting events or overflow parking beyond required parking for churches. Paving and drainage shall be in accordance with city standards. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer. All parking areas shall be maintained in good condition, free of potholes and other deterioration.

- (2) Except as noted above, any new parking area construction or expansion of an existing parking area shall be constructed of concrete or asphalt. Properties with existing parking areas not constructed of concrete or asphalt shall conform to these requirements upon a change of property use or tenant. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer.
2. Amend Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), creating a new standard (5) (Alternative Landscape Design) to read as follows and renumbering existing standards accordingly:
- “(5) Alternative landscape design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative landscape design shall be subject to approval by the City Engineer and standards for landscape plan approval per standard (6) below.”

FOR CITY COUNCIL MEETING OF: May 9, 2005 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

TE/slc

xc: Lynn Woodall, Administrative Support Supervisor

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CITY OF PLANO
PLANNING & ZONING COMMISSION

April 18, 2005

Agenda Item No. 7

Public Hearing: Zoning Case 2005-08

Applicant: City of Plano

DESCRIPTION:

Request to amend Section 3.1100 (Off-Street Parking and Loading) and Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance regarding storm water infrastructure improvements intended to improve storm water quantity and quality.

REMARKS:

The City of Plano has adopted a Storm Water Management Program (SWMP) as part of our Environmental Protection Agency (EPA) Non-Point Discharge Elimination System (NPDES) permit. The SWMP prescribes measures to improve storm water quality and departmental responsibilities and timetables for implementing those measures.

With regard to new development and redevelopment, a requirement of the city's SWMP is to proactively promote site design principles that will minimize the impact of such development on storm water quantity and quality. On March 7, 2005, the Planning & Zoning Commission called a public hearing to amend the Zoning Ordinance to remove potential impediments to storm water improvement.

RECOMMENDATION:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

1. Amend Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) to read as follows:

- "(1) Unless noted otherwise in this section, all required parking spaces and loading areas, together with driveways and maneuvering aisles, and additional parking areas which are routinely and customarily used on a daily or weekly basis shall be paved with a concrete or asphalt surface. Driveways and maneuvering aisles associated with single-family residences, farms, dairies, and ranches within the Agricultural and Estate Development zoning districts may be gravel construction. No minimum paving standard is required for parking areas for special events and seasonal sporting events or overflow parking beyond required parking for churches. Paving and drainage shall be in accordance with city standards. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer. All parking areas shall be maintained in good condition, free of potholes and other deterioration.
- (2) Except as noted above, any new parking area construction or expansion of an existing parking area shall be constructed of concrete or asphalt. Properties with existing parking areas not constructed of concrete or asphalt shall conform to these requirements upon a change of property use or tenant. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer."
2. Amend Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations), creating a new standard (5) (Alternative Landscape Design) to read as follows and renumbering existing standards accordingly:
- "(5) Alternative landscape design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative landscape design shall be subject to approval by the City Engineer and standards for landscape plan approval per standard (6) below."

1-4

ORDINANCE NO. _____
(Zoning Case 2005-08)

AN ORDINANCE OF THE CITY OF PLANO AMENDING SUBSECTION 3.1106 (PARKING AREA STANDARDS) OF SECTION 3.1100 (OFF-STREET PARKING AND LOADING), SECTION 3.1200 (LANDSCAPING REQUIREMENTS) OF ARTICLE 3 (SUPPLEMENTARY REGULATIONS), AND RELATED SECTIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, REGARDING STORM WATER INFRASTRUCTURE IMPROVEMENTS INTENDED TO IMPROVE STORM WATER QUANTITY AND QUALITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of May, 2005, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of May, 2005; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Subsection 3.1106 (Parking Area Standards) of Section 3.1100 (Off-Street Parking and Loading) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended regarding storm water infrastructure improvements intended to improve storm water quantity and quality, such section to read in its entirety as follows:

- “(1) Unless noted otherwise in this section, all required parking spaces and loading areas, together with driveways and maneuvering aisles, and additional parking areas which are routinely and customarily used on a daily or weekly basis shall be paved with a concrete or asphalt surface. Driveways and maneuvering aisles associated with single-family residences, farms, dairies, and ranches within the Agricultural and Estate Development zoning districts may be gravel construction. No minimum paving standard is required for parking areas for special events and seasonal sporting events or overflow parking beyond required parking for churches. Paving and drainage shall be in accordance with city standards. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer. All parking areas shall be maintained in good condition, free of potholes and other deterioration.
- (2) Except as noted above, any new parking area construction or expansion of an existing parking area shall be constructed of concrete or asphalt. Properties with existing parking areas not constructed of concrete or asphalt shall conform to these requirements upon a change of property use or tenant. Alternative pavement and drainage design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative pavement and drainage design shall be subject to approval by the City Engineer.”

Section II. Section 3.1200 (Landscaping Requirements) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended, creating a new standard (5) (Alternative Landscape Design) to read as follows and renumbering existing standards accordingly:

- “(5) Alternative landscape design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative landscape design shall be subject to approval by the City Engineer and standards for landscape plan approval per standard (6) below.”

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

1-6

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF MAY, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

1-7

DATE: May 3, 2005
TO: Honorable Mayor & City Council
FROM: Laura Williamson, Chairman, Planning & Zoning Commission **TE**
SUBJECT: Results of Planning & Zoning Commission Meeting of May 2, 2005

**AGENDA ITEM NO. 8 - PUBLIC HEARING
ZONING CASE 2005-09
APPLICANT: MONTESSORI CHILDREN'S HOUSE**

DESCRIPTION:

A request to expand the area of existing Specific Use Permit #137 for Day Care Center on one lot on 1.8± acres located at the southwest corner of Hedgcoxe Road and Georgetown Drive. Zoned Single-Family Residence-7/Planned Residential Development-2 (SF-7/PRD-2). Neighborhood #12.

APPROVED: 6-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **FAVOR:** 6 **OPPOSE:** 8

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **FAVOR:** 0 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as submitted.

FOR CITY COUNCIL MEETING OF: May 9, 2005 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

CHL/mac

xc: Effat Saifi, Montessori Children's House
Phillip Morse, Edifice Architecture
Lynn Woodall, Administrative Support Supervisor

CITY OF PLANO
PLANNING & ZONING COMMISSION

May 2, 2005

Agenda Item No. 8

Public Hearing: Zoning Case 2005-09

Applicant: Montessori Children's House

DESCRIPTION:

A request to expand the area of existing Specific Use Permit #137 for Day Care Center on one lot on 1.8± acres located at the southwest corner of Hedgcoxe Road and Georgetown Drive. Zoned Single-Family Residence-7/Planned Residential Development-2 (SF-7/PRD-2). Neighborhood #12.

HISTORY:

Zoning Case 87-02 approved by City Council in March 1987, established a Specific Use Permit (SUP) for Day Care Center on a portion of this property (1.3± acre tract). The Planning & Zoning Commission approved a preliminary site plan for the day care facility in July 2001. In December 2002, the Planning & Zoning Commission approved the preliminary plat for the day care center. Subsequently staff approved the final site plan in August 2003. The existing day care center has been in operation since July 2004.

REMARKS:

The applicant is requesting a 0.5± acre expansion to the existing SUP for Day Care Center. The purpose of the request is to add approximately 3,100 square feet of classroom space. There is adequate parking and outdoor play area for the 3,100 square foot addition. City staff has been working with PISD and the City of Allen to alleviate traffic concerns on Hedgcoxe Road. The addition to the existing day care center will provide a buffer to the majority of existing outdoor play area. The site will not hinder the future trail connection to the south.

The property is zoned SF-7/PRD-2. The SF-7/PRD-2 district is intended to provide for areas of urban single-family development on moderate-size lots, protected from excessive noise, illumination, odors, visual clutter, and other objectionable influences to family living. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district, which could benefit in a particular case the general welfare, provided adequate development standards and safeguards are established.

2-2

Surrounding Land Use and Zoning

The property to the west is zoned SF-7/PRD-2 and has been developed as a church. The property to the south is zoned SF-7/PRD-2 and is an existing city park (Hoblitzelle Park). The property across Georgetown Drive to the east is zoned SF-7/PRD-2 and has been developed for single-family residential uses. Property located on the north side of Hedgcoxe Road, in the city of Allen, has been developed as a public primary school (Beverly Elementary).

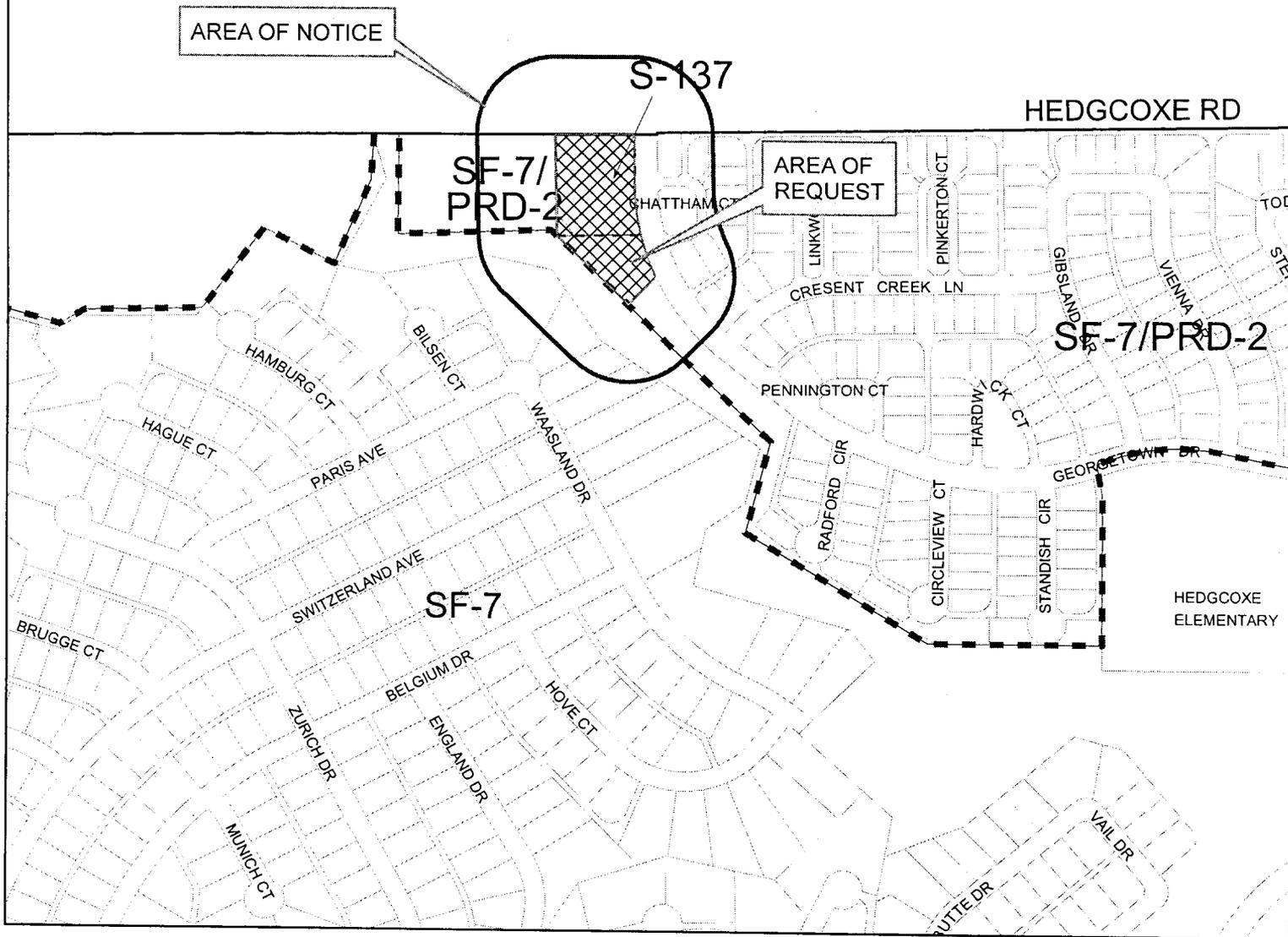
Traffic Impact Analysis

A TIA is not required for this request.

RECOMMENDATIONS:

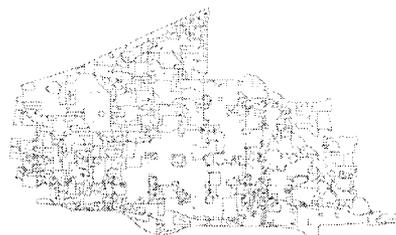
Recommended for approval as submitted.

CITY OF ALLEN



Zoning Case #: 2005-09

Existing Zoning: SINGLE-FAMILY RESIDENCE-7/
PLANNED RESIDENTIAL DEVELOPMENT-2 w/
SPECIFIC USE PERMIT #137



2-4

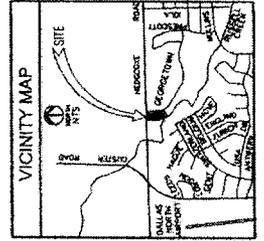
○ 200' Notification Buffer

SITE SUMMARY

ZONING	RESIDENTIAL
AREA CALCULATIONS	TOTAL LOT AREA: 154,177.00 SQ. FT. TOTAL COVERED AREA: 11,200.00 SQ. FT. TOTAL FLOOR AREA: 11,200.00 SQ. FT. TOTAL GARAGE AREA: 0.00 SQ. FT. TOTAL PARKING SPACE: 0.00 SPACES
PARKING	REQUIRED PARKING: 0.00 SPACES PROVIDED PARKING: 0.00 SPACES EXCESS PARKING: 0.00 SPACES
PLAYGROUND	AREA REQUIRED: 0.00 SQ. FT. AREA PROVIDED: 0.00 SQ. FT.
LANDSCAPE	TOTAL LANDSCAPE AREA: 0.00 SQ. FT. TOTAL PLANTING: 0.00 PLANTS

GENERAL NOTES

1. Building shall conform to all applicable codes, ordinances, and regulations.
2. Fire lane coverage shall be provided in accordance with the Fire Lane Coverage Ordinance.
3. Handicapped parking spaces shall be provided in accordance with the Americans with Disabilities Act.
4. The site plan shall be submitted to the Planning Department for review and approval.
5. The site plan shall be submitted to the Building Department for review and approval.
6. All signage shall conform to the City of Plano Signage Ordinance.
7. Approval of this site plan is conditional upon approval by the Planning Department.
8. Approval of this site plan is conditional upon approval by the Building Department.
9. Building facade shall be constructed in accordance with the City of Plano Building Ordinance.
10. The site plan shall be submitted to the Planning Department for review and approval.
11. Please contact the Planning Department to determine the type of construction and occupancy group.
12. The site plan shall be submitted to the Planning Department for review and approval.
13. The site plan shall conform to all applicable codes, ordinances, and regulations.
14. Approval of this site plan is conditional upon approval by the Planning Department.
15. Approval of this site plan is conditional upon approval by the Building Department.



ZONING EXHIBIT ZONING CASE 2005-09

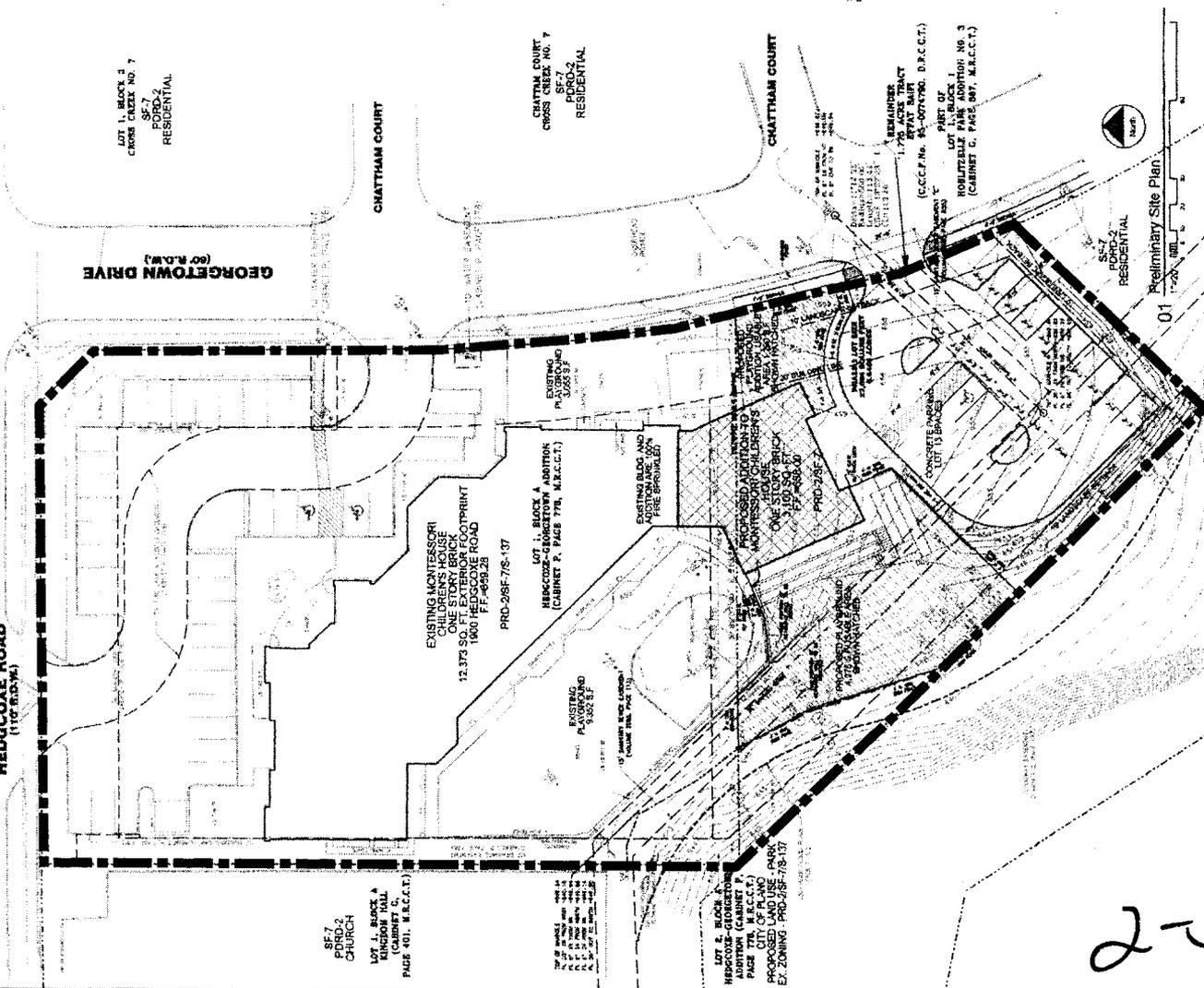
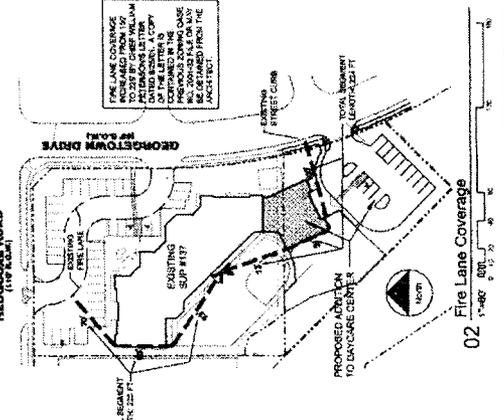
PROPERTY OWNER: MONTESSORI CHILDRENS HOUSE
 PROJECT NO.: 040933
 PROJECT ADDRESS: 1301 ELM STREET, SUITE 101, CARROLLTON, TX 75006
 PROJECT PHONE: 972.242.0844
 PROJECT FAX: 214.984.9372
 ARCHITECT: EDINOR ARCHITECTURE
 PROJECT ADDRESS: 1301 ELM STREET, SUITE 101, CARROLLTON, TX 75006
 PROJECT PHONE: 972.242.0844
 PROJECT FAX: 214.984.9372
 DATE: 03/11/09
 SCALE: AS SHOWN
 SHEET: ZSP-1
 ZONING CASE: 2005-09

LEGEND

1. 1" = 100'	2. 1" = 200'	3. 1" = 400'	4. 1" = 800'	5. 1" = 1600'
6. 1" = 3200'	7. 1" = 6400'	8. 1" = 12800'	9. 1" = 25600'	10. 1" = 51200'
11. 1" = 102400'	12. 1" = 204800'	13. 1" = 409600'	14. 1" = 819200'	15. 1" = 1638400'
16. 1" = 3276800'	17. 1" = 6553600'	18. 1" = 13107200'	19. 1" = 26214400'	20. 1" = 52428800'
21. 1" = 104857600'	22. 1" = 209715200'	23. 1" = 419430400'	24. 1" = 838860800'	25. 1" = 1677721600'

TREE CHART

TRUNK DBH (IN)	HEIGHT (FT)	SPREAD (FT)	REMARKS
12	15	10	Small tree
18	25	15	Medium tree
24	35	20	Large tree
30	45	25	Very large tree
36	55	30	Large tree
42	65	35	Very large tree
48	75	40	Large tree
54	85	45	Very large tree
60	95	50	Large tree
66	105	55	Very large tree
72	115	60	Large tree
78	125	65	Very large tree
84	135	70	Large tree
90	145	75	Very large tree
96	155	80	Large tree
102	165	85	Very large tree
108	175	90	Large tree
114	185	95	Very large tree
120	195	100	Large tree



ORDINANCE NO. _____
(Zoning Case 2005-09)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, AMENDING SPECIFIC USE PERMIT NO. 137 SO AS TO EXPAND THE DAY CARE CENTER ON 1.8± ACRES OF LAND OUT OF THE GRIZZEL KENNEDY SURVEY, ABSTRACT NO. 499, LOCATED ON ONE LOT AT THE SOUTHWEST CORNER OF HEDGCOXE ROAD AND GEORGETOWN DRIVE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED SINGLE-FAMILY RESIDENCE-7/PLANNED RESIDENTIAL DEVELOPMENT-2 WITH SPECIFIC USE PERMIT NO. 137 FOR DAY CARE CENTER; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of May, 2005, for the purpose of considering amending Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8± acres of land out of the Grizzel Kennedy Survey, Abstract No. 499, located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of May, 2005; and

WHEREAS, the City Council is of the opinion and finds that the amending of Specific Use Permit No. 137 so as to expand existing Specific Use Permit #137 for Day Care Center on 1.8± acres of land out of the Grizzel Kennedy Survey, Abstract No. 499, located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

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WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended so as to amend Specific Use Permit No. 137 so as to expand the Day Care Center on 1.8± acres of land out of the Grizzel Kennedy Survey, Abstract No. 499, located on one lot at the southwest corner of Hedgcoxe Road and Georgetown Drive in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-7/Planned Residential Development-2 with Specific Use Permit No. 137 for Day Care Center, said property being more fully described on the legal description in Exhibit "A" attached hereto.

Section II. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF MAY, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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EXHIBIT "A"
LEGAL DESCRIPTION

BEING a tract of land situated in the City of Plano, Collin County, Texas, out of the Grizzel Kennedy Survey, Abstract No. 499, and being all of Lot 1, Block A, Hedgcoxe-Georgetown Addition according to the plat thereof recorded in Cabinet P, Page 778, Map Records, Collin County, Texas, also being a portion of Lot 1, Block 1, Hobitzelle Park Addition No. 3, according to the plat thereof recorded in Cabinet G, Page 687, Map Records, Collin County, Texas, also being the remainder of a 1.775 acre tract of land conveyed to Effat Saifi according to the deed recorded in Clerk's File No. 95-0074790, Deed Records, Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron rod found in the south right-of-way line of Hedgcoxe Road (110' right-of-way) also being at the northerly line of said Lot 1;

THENCE South $45^{\circ} 23' 00''$ East, a distance of 28.28 feet to an aluminum disk set in concrete, lying in the west right-of-way line of Georgetown Drive (60' right-of-way), the northeast corner of said Lot 1;

THENCE along said west right-of-way line, South $00^{\circ} 23' 00''$ East, a distance of 139.09 feet to a 1" iron rod found, the beginning of a tangent curve to the left;

THENCE continuing along said west right-of-way line, along said curve to the left through a central angle of $23^{\circ} 40' 34''$, a radius of 580.00 feet, an arc length of 239.67 feet, a chord bearing South $12^{\circ} 13' 17''$ East, a chord distance of 237.97 feet to a 1" iron rod found at the southeast corner of said 1.775 acre tract;

THENCE departing said west right-of-way line, along the southeast line of said 1.775 acre tract, South $44^{\circ} 39' 37''$ West, a distance of 100.00 feet to a 1/2" iron rod found at the most southerly corner thereof;

THENCE along the southwesterly line of said 1.775 acre tract, North $45^{\circ} 20' 23''$ West, a distance of 252.00 feet to a 1" iron rod found at the southeast corner of Lot 1, Block A, Kingdom Hall Addition, according to the plat filed for record in Cabinet G, Page 401, Map Records, Collin County, Texas, also being the southwest corner of Lot 2, Block A of said Hedgcoxe-Georgetown Addition;

THENCE along the common line of said Lot 2, Block A and said 1.775 acre tract, North $89^{\circ} 37' 00''$ East, a distance of 45.77 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199", the southeast corner of said Lot 2, the southwest corner of said Lot 1, Block A;

THENCE along the common line of said Lot 1, Block A and Lot 2, Block A, Hedgcoxe-Georgetown Addition, North $36^{\circ} 56' 39''$ West, a distance of 2.07 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199";

THENCE continuing along said common line, North $39^{\circ} 47' 18''$ West, a distance of 18.02 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199";

THENCE continuing along said common line, North $31^{\circ} 35' 26''$ West, a distance of 26.34 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199";

THENCE continuing along said common line, North $70^{\circ} 04' 17''$ West, a distance of 13.11 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199";

THENCE continuing along said common line, South $86^{\circ} 36' 16''$ West, a distance of 7.17 feet to a 5/8" iron rod set with red plastic cap stamped "R.P.L.S. 5199", the southwest corner of said Lot 1, Block A, Hedgcoxe-Georgetown Addition, and lying in the east line of said Lot 1, Block A, Kingdom Hall Addition;

THENCE along the westerly line of said Lot 1, Block A, Hedgcoxe-Georgetown Addition, and along the east line of said Lot 1, Block A, Kingdom Hall Addition, North $00^{\circ} 23' 00''$ West, a distance of 222.04 feet to a 1" iron rod found in the south right-of-way line of said Hedgcoxe Road, the northwest corner of said Lot 1, Block A, Hedgcoxe-Georgetown Addition, and the northeast corner of said Lot 1, Block A, Kingdom Hall Addition;

THENCE along said south right-of-way line, North $89^{\circ} 37' 00''$ East, a distance of 180.00 feet to the POINT OF BEGINNING and CONTAINING 75,862 square feet or 1.7416 acres of land, more or less.

2-10

DATE: April 19, 2005
TO: Honorable Mayor & City Council
FROM: Laura Williamson, Chairman, Planning & Zoning Commission **TE**
SUBJECT: Results of Planning & Zoning Commission Meeting of April 18, 2005

**PUBLIC HEARING:
SUBDIVISION ORDINANCE AMENDMENT
APPLICANT: CITY OF PLANO**

DESCRIPTION:

Request to amend Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design) and related sections of the Subdivision Ordinance regarding storm water infrastructure improvements intended to improve storm water quantity and quality.

APPROVED: 8-0 **DENIED:** _____ **TABLED:** _____

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Section 5.1 (General Requirements) of the Subdivision Ordinance, creating a new Subsection 5.1.d. (Alternative Public Facilities Design) and renumbering existing subsections accordingly:

"d. Alternative Public Facilities Design - Alternative public facilities design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative facilities design shall be subject to approval by the City Engineer.

FOR CITY COUNCIL MEETING OF: May 9, 2005 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

TE/slc

xc: Lynn Woodall, Administrative Support Supervisor

CITY OF PLANO

PLANNING & ZONING COMMISSION

April 18, 2005

Agenda Item No. 9

Public Hearing: Subdivision Ordinance Amendment

Applicant: City of Plano

DESCRIPTION:

Request to amend Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design) and related sections of the Subdivision Ordinance regarding storm water infrastructure improvements intended to improve storm water quantity and quality.

REMARKS:

The City of Plano has adopted a Storm Water Management Program (SWMP) as part of our Environmental Protection Agency (EPA) Non-Point Discharge Elimination System (NPDES) permit. The SWMP prescribes measures to improve storm water quality and departmental responsibilities and timetables for implementing those measures.

With regard to new development and redevelopment, a requirement of the city's SWMP is to proactively promote site design principles that will minimize the impact of such development on storm water quantity and quality. On March 7, 2005, the Planning & Zoning Commission called a public hearing to amend the Subdivision Ordinance to remove potential impediments to storm water improvement.

RECOMMENDATION:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Section 5.1 (General Requirements) of the Subdivision Ordinance, creating a new Subsection 5.1.d. (Alternative Public Facilities Design) and renumbering existing subsections accordingly:

"d. Alternative Public Facilities Design - Alternative public facilities design intended to improve storm water quantity and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative facilities design shall be subject to approval by the City Engineer.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE SUBDIVISION ORDINANCE OF THE CITY OF PLANO, AS HERETOFORE AMENDED, BY AMENDING SECTION 5.1 (GENERAL REQUIREMENTS) OF ARTICLE V (REQUIREMENTS FOR PUBLIC IMPROVEMENTS, RESERVATION AND DESIGN), BY CREATING A NEW SUBSECTION 5.1.D. (ALTERNATIVE PUBLIC FACILITIES DESIGN); RENUMBERING EXISTING SUBSECTIONS ACCORDINGLY; AND PERTAINING TO RELATED SECTIONS OF THE SUBDIVISION ORDINANCE OF THE CITY OF PLANO, REGARDING STORM WATER INFRASTRUCTURE IMPROVEMENTS INTENDED TO IMPROVE STORM WATER QUANTITY AND QUALITY, AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of May, 2005, for the purpose of amending Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design) of the Subdivision Ordinance, creating a new Subsection 5.1.d (Alternative Public Facilities Design), renumbering the existing subsections accordingly; and

WHEREAS, the City Secretary of Plano accordingly caused to be issued and published the notices required by laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of Plano, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid amending Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design) of the Subdivision Ordinance, creating a new Subsection 5.1.d (Alternative Public Facilities Design), of the Subdivision Ordinance of the City of Plano and renumbering the existing subsection accordingly and pertaining to related sections of the Subdivision Ordinance of the City of Plano, on the 9th day of May, 2005; and

WHEREAS, the City Council is of the opinion and finds that such amendments to the City of Plano Subdivision Ordinance would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section 5.1 (General Requirements) of Article V (Requirements for Public Improvements, Reservation and Design) of the Subdivision Ordinance of the City of Plano, as the same has been heretofore amended, by creating a new Subsection 5.1.d (Alternative Public Facilities Design) and renumbering existing subsections accordingly, as the same has been heretofore amended, is hereby further amended to read as follows:

"d. Alternative Public Facilities Design - Alternative public facilities design intended to improve storm water quality and/or intended to decrease storm water quantity will be considered if submitted as part of a site-specific storm water management plan. Alternative facilities design shall be subject to approval by the City Engineer."

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF MAY, 2005.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	05/09/05	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Planning	Initials	Date	
Department Head	Phyllis Jarrell	Executive Director	<i>[Signature]</i> 5/2/05 <i>[Signature]</i> 5/2/05	
Dept Signature:	<i>[Signature]</i>	City Manager		
Agenda Coordinator (include phone #):		Lynn Woodall, ext. 7156		
ACTION REQUESTED:		<input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER APPEAL		
CAPTION				
Public Hearing and Consideration of an appeal of the Planning & Zoning Commission's denial of Zoning Case 2005-05 - Request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Zoned Agricultural. Neighborhood #43. Tabled 04/25/05.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
The applicant is requesting a PD district to allow retail use and bank, savings & loan or credit union in the O-1 district. The Planning & Zoning Commission denied this request by a vote of 7-0 on March 21, 2005. A 3/4 vote of the City Council will be required to approve the request. This item was tabled by the City Council on April 25, 2005.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
P&Z Follow-up Memo CC Follow-up Memo Summary of P&Z's Actions from the 2nd Vice Chair Staff Report Zoning Exhibit Location Map				

DATE: March 22, 2005
TO: Applicants with Items before the Planning & Zoning Commission
FROM: Laura Williamson, Chairman, Planning & Zoning Commission *CHL*
SUBJECT: Results of Planning & Zoning Commission Meeting of March 21, 2005

AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2005-05
APPLICANT: GREENWAY-PRESTON & PARKER, LTD.

DESCRIPTION:

A request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Zoned Agricultural. Neighborhood #43.

APPROVED: _____ DENIED: 7-0 TABLED: _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: FAVOR: 0 OPPOSE: 8

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: FAVOR: 0 OPPOSE: 0

PETITION(s) RECEIVED: N/A # OF SIGNATURES: N/A

STIPULATIONS:

The Planning & Zoning Commission denied this request and found it to be inconsistent with the Land Use Element of the Comprehensive Plan. The Commission also noted existing abundance of vacant and undeveloped retail zoned property within the area and potential traffic congestion.

CHL/mac

xc: Todd Petty, Greenway-Preston & Parker, LTD
Fred Harrington
Constance Coolik
Cynthia Harrington
Larry Good, Good, Fulton & Farrell

4-2

DATE: April 26, 2005
TO: Applicants with Items before City Council
FROM: Tom Elgin, Development Review Manager 
SUBJECT: Results of City Council Meeting of April 25, 2005

PUBLIC HEARING
ZONING CASE 2005-05
APPLICANT: GREENWAY-PRESTON & PARKER, LTD.

DESCRIPTION:

A request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Zoned Agricultural. Neighborhood #43.

APPROVED: _____ **DENIED:** _____ **TABLED:** _____ 8-0

STIPULATIONS:

At the request of the applicant, consideration of this item was tabled to the May 9, 2005, City Council meeting.

CHL/slc

xc: Todd Petty, Greenway-Preston & Parker, LTD
Fred Harrington
Constance Coolik
Cynthia Harrington
Larry Good, Good, Fulton & Farrell

Recommendation by P&Z Commission on March 21, 2005

Agenda Item No. 7A

Public Hearing: Zoning Case No. 2005-05

Applicant: Greenway-Preston& Parker, Ltd.

Description: A request to zone 22.5 acres on the SE corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office(O-1) to allow for Retail and Bank, Savings and Loan or Credit Union uses. Zoned Agricultural.

Commission Vote: Motion for Denial passed by vote of 7-0.

Staff Recommendation: Recommended for denial.

Remarks:

The representative for the applicants stated that the size and shape of the 22 plus acres created several areas of hardship for development. The depth of the strip ranges from 375' to 445' from Preston Road to the east property line. In addition, there are required setbacks. Further, approximately 5.0 acres are in flood plain.

The representative clarified the request as 2.2 acres for retail and 1.79 acres for bank.

Several persons representing nearby property owners spoke in opposition to the zoning request citing sufficient retail and office development already in the area. Eight (8) letters were received in opposition to the zoning and none (0) in favor.

Majority opinion and conclusions from commissioners:

The requested zoning change adds to the imbalance of retail and office zoning already existing in the Preston Road Corridor and is inconsistent with the Land Use element of the Comprehensive Plan.

Minority Report

There is no minority report as the vote to deny was unanimous.

Joyce Beach, 2nd Vice Chair
Planning and Zoning Commission

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CITY OF PLANO
PLANNING & ZONING COMMISSION

March 21, 2005

Agenda Item No. 7A

Public Hearing: Zoning Case 2005-05

Applicant: Greenway-Preston & Parker, Ltd.

DESCRIPTION:

A request to rezone 22.5± acres located on the southeast corner of Parker Road and Preston Road from Agricultural (A) to Planned Development-Neighborhood Office (PD-O-1) to allow for Retail and Bank, Savings and Loan, or Credit Union uses. Zoned Agricultural. Neighborhood #43.

REMARKS:

The applicant is requesting to rezone the property from A to PD-O-1. The applicant proposes to amend the base O-1 zoning district to allow for Retail use, and a Bank, Savings and Loan, or Credit Union use. A concept plan and preliminary site plan accompany this request as Agenda Items 7B and 7C.

The current zoning is A. The A district is intended to provide for farming, dairying, pasturage, horticultural, animal husbandry, and the necessary accessory uses for packing, treating, or storage of produce. It is anticipated that all A districts will be changed to other zoning classifications as the city proceeds towards full development. The O-1 district is intended to provide for low-rise, garden-type office development providing professional, medical, and other office services to residents in adjacent neighborhoods. O-1 districts shall have principal access to major thoroughfares and may serve as an area of transition between residential and high-intensity nonresidential uses. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off- and on-site conditions.

4-5

The zoning exhibit shows four tracts. Tract one (approximately 2.2± acres) is located on the immediate southeast corner of Parker Road and Preston Road and is the proposed location for the retail use (pharmacy with drive through lanes). Tract two (approximately 1.8± acres), located south of tract one, shows the proposed bank with drive through lanes. The remaining property shown as tracts three and four (approximately 18.0± acres) is proposed to be general and medical office uses.

The area of the request is bordered on three sides by major thoroughfares - Preston Road on the west, Parker Road on the north, and Tulane Drive on the south. A natural creek and floodplain cross the southern third of the property. The northern portion of the property falls in elevation in a southeasterly direction to the creek. The southern property falls in elevation in a northerly direction to the creek. There are some trees and other native vegetation in the floodplain of the creek.

Surrounding Land Use and Zoning

The properties to the east are zoned Planned Development-150-Single-Family Residence-Attached (PD-150-SF-A) and Patio Home (PH). They are currently being developed as an independent and assisted living facility (retirement housing) and single family residential uses. To the north, across Parker Road, the property is zoned Planned Development-184-Retail/General Office (PD-184-R/O-2), and has been developed as a retail shopping center. Properties to the west, across Preston Road, are zoned Single-Family Residence-7 (SF-7) and Single-Family Residence-9 (SF-9), and have been developed for single family residential uses. The property south of Tulane drive is zoned Planned Development-449-Multifamily Residence-3 (PD-449-MF-3) and has been developed for multifamily residential uses.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this area as appropriate for residential uses. The Plan also includes a Neighborhood Commercial designation for the intersection of Parker Road and Preston Road. The Comprehensive Plan recommends that no more than one or two corners of an intersection be zoned for neighborhood commercial uses. While only the northeast corner of this intersection is zoned and developed for retail uses at this time, the amount of existing retail space is sufficient to satisfy the need for retail and commercial uses at this intersection.

Adequacy of Public Facilities - Water and sanitary sewer services are available.

Traffic Impact Analysis (TIA) - The applicant provided a traffic generation analysis for the site, and has determined that the requested PD-O-1 zoning does not generate traffic in excess of 5,000 vehicle trips per day; therefore, a TIA is not required. Traffic engineering staff concurs with the applicant's assessment.

4-6

ISSUES:

Request for Neighborhood Office Base Zoning

The applicant is requesting a base zoning of Neighborhood Office (O-1). Per its stated purpose, O-1 zoning has been used to provide services to residential areas and buffer residential areas from adjacent, higher intensity nonresidential uses. This request could provide neighborhood office services; however, the proposed retail use is inconsistent with the lower intensity intent of the O-1 district as a buffer to adjacent residential.

Proposed Planned Development Stipulations:

The applicant is requesting to amend the base Neighborhood Office (O-1) zoning to allow for a retail use on the immediate corner, and to allow a bank, savings and loan, or credit union use. Banks are typically allowed by SUP in the O-1 district, and are generally compatible with other O-1 uses. To allow only one corner lot to be developed for retail uses, however, is counter to the traditional form of retail development in the city and raises questions of spot zoning.

Size and Shape of Property

This tract is long and narrow, with a depth of 400± feet at its widest point. While this configuration could somewhat limit the design of a residential subdivision, staff believes that the property could be developed for residential uses. In anticipation of this, two streets were designed to be connected from the residential properties to the east. One of the street stubs has been constructed south of the creek; the other is planned to extend from a proposed townhouse development north of the creek.

Zoning Imbalance

There is a limited amount of undeveloped residential property in the city and a relative abundance of nonresidential property. The Land Use Element of the Comprehensive Plan recognizes that there is a zoning imbalance in the city stating that there is "more land zoned for retail, office, industrial, and multifamily use than is likely to develop." Rezoning property from agricultural to nonresidential uses creates a greater imbalance of zoning within the city. A zoning imbalance is especially significant at major intersections with an abundance of existing commercial space. Approximately 230,000 square feet of retail and nonresidential space has been developed at the northeast corner of Parker Road and Preston Road. Substantially more retail and office space exists one intersection to the south at Park Boulevard and Preston Road. There is still undeveloped land to the north at Spring Creek Parkway and Preston Road that would also accommodate additional retail and office uses. Staff feels that there is adequate existing retail and office space within close proximity to area neighborhoods.

4-7

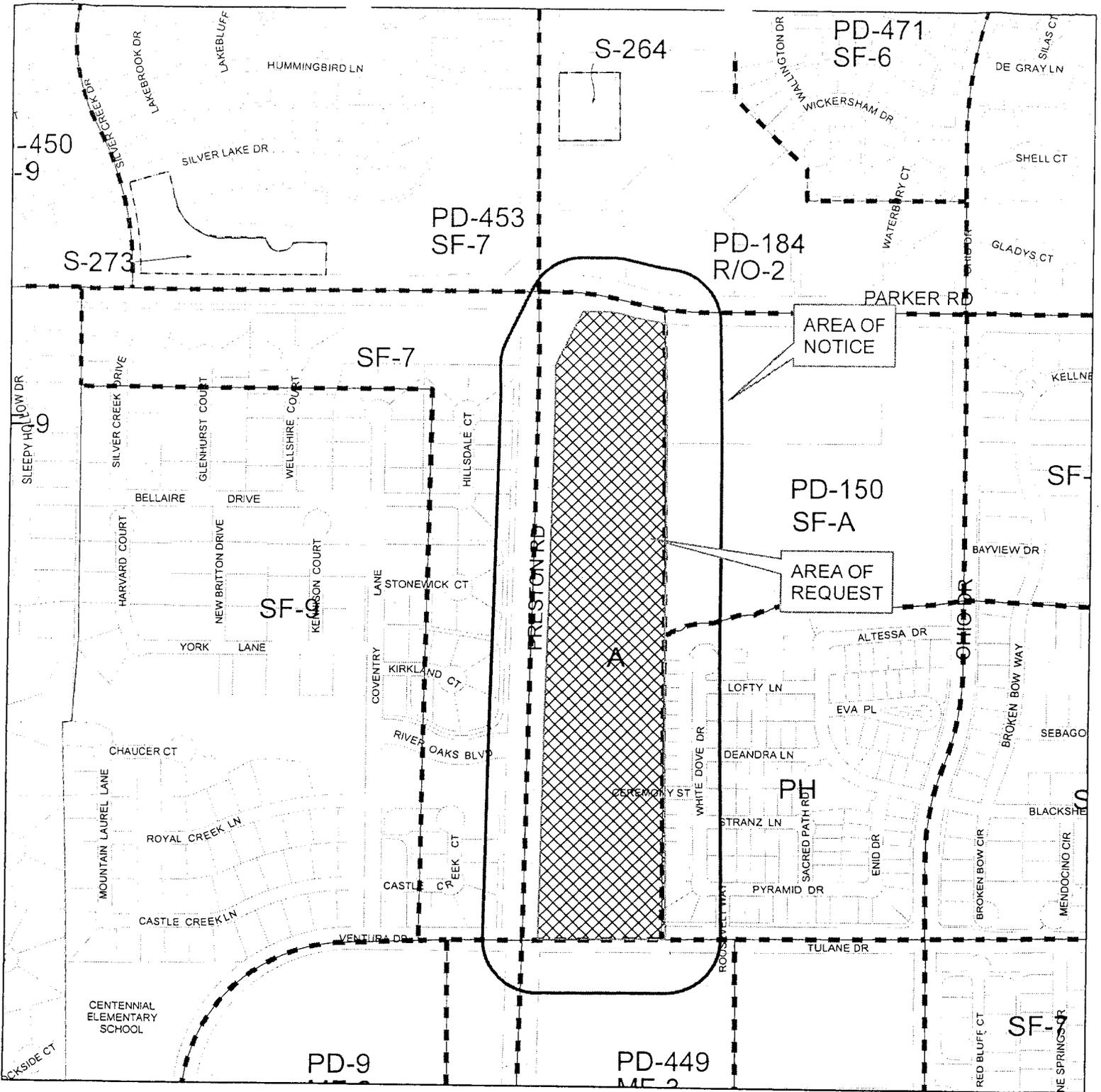
SUMMARY:

Staff recommends denial of the PD-O-1 zoning request. The request is inconsistent with the residential land use designation of the Comprehensive Plan. The existing Preston Road corridor has an abundance of vacant retail space, and additional retail space would exacerbate this situation. The retail use runs counter to the intent of the O-1 district to serve as a transition or buffer between higher intensity commercial uses and adjacent residential development.

RECOMMENDATIONS:

Recommended for denial.

4-8



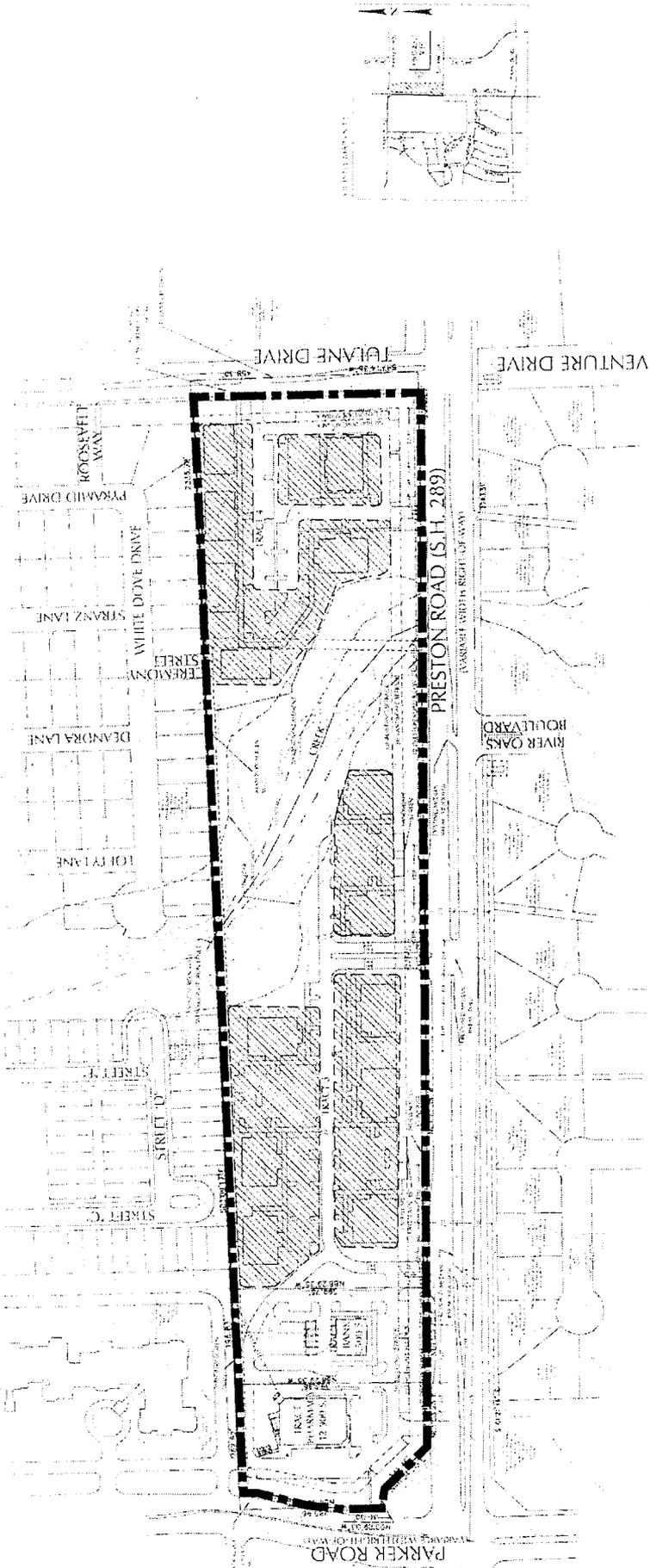
Zoning Case #: 2005-05

Existing Zoning: AGRICULTURAL

4-9
 ○ 200' Notification Buffer



01-4



AREA	AREA	AREA	AREA
100	200	300	400
500	600	700	800
900	1000	1100	1200

NOTES:
 1. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE FRONT YARD BY A MINIMUM OF 10 FEET.
 2. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE SIDE YARD BY A MINIMUM OF 5 FEET.
 3. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE REAR YARD BY A MINIMUM OF 10 FEET.
 4. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE CORNER BY A MINIMUM OF 10 FEET.
 5. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE STREET BY A MINIMUM OF 10 FEET.
 6. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.
 7. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.
 8. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.
 9. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.
 10. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.

NOTES:
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 10. ALL PROPOSED BUILDINGS SHALL BE SET BACK FROM THE ADJACENT LOT BY A MINIMUM OF 5 FEET.

0 100 200 400 Feet
 ZONING CASE 2005-05
 GREENWAY/HARRINGTON ADDITIO.
 LOTS 1-4
 OFFICE PARK
 PLANO, TEXAS
 MARCH 16, 2005

GOOD FULTON & FARRELL
P L A N N I N G

10000 Preston Road, Suite 1000, Plano, TX 75094
 Phone: (972) 440-1000
 Fax: (972) 440-1001
 Website: www.goodfulton.com

ZONING EXHIBIT
GREENWAY/HARRINGTON ADDITION
PLANO, TEXAS



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Economic Development		Initials	Date
Department Head	S. Bane	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>5/2/05</i>
Agenda Coordinator (include phone #):				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, establishing a retail incentive policy statement; establishing criteria for evaluating retail incentive applications; establishing procedural guidelines and criteria governing incentive agreements; and providing an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
This resolution approves the policies, criteria and procedures for evaluating requests for retail development incentives provided to business entities desiring to expand or relocate to the city. Incentives would include real property and business personal property tax abatements, Chapter 380 grants, and neighborhood empowerment zone designations. Retail Development Incentive guidelines will be effective for two years.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Policy Statement for Retail Development Incentives				

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ESTABLISHING A RETAIL INCENTIVE POLICY STATEMENT; ESTABLISHING CRITERIA FOR EVALUATING RETAIL INCENTIVE APPLICATIONS; ESTABLISHING PROCEDURAL GUIDELINES AND CRITERIA GOVERNING RETAIL INCENTIVE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in order to promote quality retail economic development, it is necessary in appropriate cases to grant incentives to encourage businesses to expand or to relocate to the City of Plano, Texas; and

WHEREAS, the Plano Economic Development Board has presented to the City Council for the City of Plano a proposed Policy Statement for Retail Development Incentives (attached hereto as Exhibit "A") that establish retail incentive policy, criteria and guidelines that will assist the city in evaluating applications for quality retail development; and

WHEREAS, upon review and consideration of all matters attendant and related thereto, the City Council finds that the Policy Statement for Retail Development Incentives should be approved; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

Section I. The City Council of the City of Plano hereby affirms its support and approval of the retail development incentive program as proposed in the attached Policy Statement for Retail Development Incentives (Exhibit "A").

Section II. City Staff is hereby authorized to implement the program and submit agreements for City Council consideration that are consistent with the attached policy statement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the _____ day of _____, 2005.

Pat Evans, MAYOR

5-2

RESOLUTION NO. _____

Page 2

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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CITY OF PLANO

POLICY STATEMENT FOR RETAIL DEVELOPMENT INCENTIVES

I. General Purpose and Objectives

High quality retail development is a key contributor to the quality of life for all of Plano's citizens. To ensure the promotion and retention of desirable retail development, the City of Plano will, on a case-by-case basis, provide incentives to businesses in furtherance of this objective. The following policies, procedures and criteria will guide the City of Plano in determining which applicants should receive consideration. The City reserves the right to deny incentives to an applicant as it deems appropriate.

II. Criteria

Any request for retail development incentives shall be reviewed by the Retail Development Committee, a committee comprised of members who are City of Plano appointees to the Joint Committee on Tax Abatement. The Retail Development Committee (hereafter "Committee") serves as a recommending body to the City Council regarding whether economic development incentives should be offered to eligible applicants. Their recommendation shall be based upon an evaluation of the criteria that each applicant will be requested to address.

5-4

III. Value of Incentives

Following an assessment of the application and narrative response or other written documentation, the Committee shall determine whether it is in the best interests of the City of Plano to recommend that incentives be offered to the applicant. Additional consideration beyond the criteria will include such items as the degree to which the applicant’s proposed retail development furthers the goals and objectives of the community or meets or compliments a special need identified by the community.

Incentives may include one or more of the following categories: 1) Real Property Tax Abatement; 2) Business Personal Property Tax Abatement; 3) Chapter 380 Grants; and 4) Neighborhood Empowerment Zone (NEZ) designations.

Real property tax abatement incentives may be offered to applicants that pursue the construction or renovation of new facilities in which to house the applicable retail project. The incentive will apply to the increased tax value of permanent improvements attributable to the new construction or renovation.

Business Personal Property tax abatement incentives may be offered to applicants that pursue the purchase or long-term lease of existing facilities. The incentive will apply to the increase in taxable value of new business personal property brought into the city.

Chapter 380 grants may be offered to applicants that pursue quality retail development. The grants will be in the form of retail sales tax rebates derived from the increased sales taxes generated from the new development.

Neighborhood Empowerment Zone (NEZ) designation may be offered to applicants who pursue the creation of viable retail establishments. NEZ

designation will offer a limited waiver of fees associated the construction of a retail related project.

Once a determination has been made that an incentive(s) should be offered, the value and term of the incentive(s) will be determined based upon information provided in the narrative response or other documentation.

IV. Procedures

Any person, organization or corporation seeking retail development incentives from the City of Plano shall be required to comply with the following procedures. Nothing within these procedures shall imply or suggest that the City of Plano is under any obligation to provide an incentive(s) in any amount or value to any applicant.

V. Preliminary Application

- A. Applicant shall complete the attached "Application for Retail Development Incentives."
- B. Applicant shall address all criteria questions outlined in the application in narrative format.
- C. Applicant shall prepare a plat showing the precise location of the property, all roadways within 500 feet of the site, and all existing land uses and zoning within 500 feet of the site.

5-6

EXHIBIT "A" TO RESOLUTION NO. _____

- D. 14 days prior to the public hearing, the applicant must provide a metes & bounds property description and a general address of the property.
- E. Applicant shall complete all forms and information detailed in items A through D above and submit them to the Director of Finance, City of Plano, P. O. Box 860358, Plano, Texas 75086-0358 (email: jmcgrane@plano.gov). Applicant shall also submit a copy of the application to the Executive Director of the Plano Economic Development Board, 4800 Preston Park Boulevard, Suite A-100, Plano, Texas 75093 (email: sbane@airmail.net).

VI. Application Review

- A. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
- B. The application will be distributed to the appropriate City departments for internal review and comments. Additional information may be requested as needed.
- C. Copies of the complete application package and staff comments will be provided to the Committee.

5-7

VII. Consideration of the Application

- A. The Committee will consider the application at a regular or special called meeting. The applicant must submit the incentive application to the City of Plano at least fourteen (14) days prior to the meeting of the Committee, scheduled on a monthly basis. Upon review, the Committee will determine whether it will recommend a proposed offer of incentives to the applicant. The proposed offer shall not bind the City of Plano to grant an incentive.
- B. Upon receipt of the proposed offer, the applicant will have ninety (90) days to accept, reject or request an extension of the proposed offer. All responses and requests to extend the proposed offer shall be made to the Committee.
- C. Upon written acceptance by the applicant, the recommendation of the Committee with all relevant materials will be forwarded to the City of Plano City Manager.
- D. For tax abatements, the City Council of Plano may consider a resolution calling a public hearing to consider establishment of a reinvestment zone.
- E. For tax abatements, the City Council of Plano may hold the public hearing and determine whether the project is "feasible and practical

5-8

EXHIBIT "A" TO RESOLUTION NO. _____

and would be of benefit to the land to be included in the zone and to the municipality after the expiration of the incentive agreement.”

- F. For tax abatements, the City Council of Plano may consider adoption of an ordinance designating the area described in the legal description of the proposed project as a reinvestment zone.
- G. The City Council may consider adoption of a resolution approving the terms and conditions of a contract between the City and the applicant governing the provision of the incentive(s).
- H. Certain information provided to the Committee in connection with an application or request for incentive(s) may be confidential and not subject to public disclosure until the incentive agreement is executed. The Committee, through the City of Plano, will respond to requests for disclosure as required by law and will assert exceptions to disclosure as it deems relevant. Texas Government Code Chapter 552; Texas Tax Code section 312.003.
- I. If the incentive agreement is approved, the City of Plano will send copies of the agreement to the Texas Department of Economic Development, Office of the Comptroller, and to the State Property Board each April.
- J. Real and Business Personal Property is assessed on January 1 of each year. It is the obligation of the applicant to ensure that all final approvals for the incentive agreement have occurred by December

5-9

31st of the year prior to the year the improvements are assessed. No incentive can be given for improvements that are on the Assessor's Roll before the incentive is effective. The applicant should be aware that because of mandatory publication requirements, compliance with the governing body's calendar, and other matters, the process for obtaining approval for an incentive with the governing body is extensive and may take as long six weeks. It is the applicant's responsibility to ensure the follow up of these items and approvals.

VIII. Incentive Agreement Terms

At a minimum, all incentives shall include the following provisions:

- A. No Business Personalty shall be relocated from any other Reinvestment Zone in the City;
- B. A minimum number of jobs must be maintained consistent with the incentive agreement;
- C. Right of inspection to the premises must be provided to ensure compliance with the Agreement; and
- D. The right of recapture of previous incentives if Applicant fails to materially comply with the terms of the incentive agreement.

5-10

CITY OF PLANO

APPLICATION FOR RETAIL DEVELOPMENT INCENTIVES

1. Applicant Company's Name
Company's Representative
Mailing Address
Telephone Number
Fax Number
Email Address

2. Property Owner
Mailing Address
Telephone Number
Fax Number
Email Address

3. Property Owner's Representative
Mailing Address
Telephone Number
Fax Number
Email Address

4. Property Address
Property Legal Description (or provide email attachment of metes
and bounds.)

5-11

EXHIBIT "A" TO RESOLUTION NO. _____

5. Located within:

City of Plano?

Collin County?

Denton County?

6. Description of Project:

7. Date projected for occupancy of project/initiation of operations:

8. Acreage of site:

9. Square footage of occupied space:

10. Will the business:

Construct a new facility

Occupy existing space

Occupy space that is currently planned or under construction?

11. Type of occupancy:

Owner/Occupied

Landlord/Tenant

If leasing, what is the length of the lease?

12. Do you plan to utilize Plano-based companies in the design, construction and on-going operations of the facility?

If yes, please provide details.

5-12

EXHIBIT "A" TO RESOLUTION NO. _____

(Check all that apply)

13. The business is:

New to Plano

Relocating/Expanding from:

Another city/county in Texas

Out-of-state

14. The business is:

Public

Private

15. Type of incentive requested:

Real Property improvements

Business Personal Property improvements

Chapter 380 grants

NEZ

5-13

Employment Impact

1. Please provide a schedule of projected employment milestones including:
Initial employment (at occupancy)
Projected employment (milestone) by (indicate date)
Projected employment (milestone) by (indicate date)
Anticipated full employment by (indicate date)
2. What is the number of new jobs that will be created?
3. What is the number of jobs that will be relocated to Plano?
From the DFW Metroplex
From other locations
4. What types of jobs will be created?
5. What will be the average annual salary?
6. What will the total annual payroll be?

5-14

Fiscal Impact

	Initial Year	Year (If applicable)	Year (If applicable)
1. What is the value of the Real Property improvements (exclusive of land) that will be added to the base?			
2. What is the value of the Business Personal Property improvements that will be added to the base?			
TOTAL IMPROVEMENTS	\$	\$	\$

3. What are the projected retail sales per square foot?
4. What is the value of sales that will be subject to sales collection by the City of Plano?
5. Will additional infrastructure investment be required from the City of Plano at the proposed site(s)?

If so, please detail required improvements.

5-15

Community Impact

1. Is this retail establishment unique, or will it compete with existing retail business present in the community?
2. Does the retail establishment provide goods or services to an underserved market?
3. Does the retail establishment draw consumers from outside the trade area?
4. Is the development of the project likely to contribute to the revitalization or enhancement of adjacent development?
5. Will the retail establishment serve as an anchor that draws ancillary retail development?
6. Will the establishment of the retail business help realize a community goal or planning objective?
7. What effect would the project have on existing residential neighborhoods?
8. Will development of the project create any environmental impact (air quality, water quality, visual quality, etc.)?
9. Will any zoning changes be necessary to accommodate the project?
10. Is the project compatible with the City's Comprehensive Plan?
11. Please summarize the history of the company including:
 - a. Philanthropic support
 - b. Community involvement
 - c. Average store tenure and location commitment
12. Please describe the necessity in requesting the incentive(s). Describe the competitive, financial or other issues associated with this application.

5-16



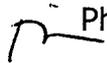
CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: 5/9/05		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Planning		Initials	Date
Department Head	P. Jarrell	Executive Director	<i>[Signature]</i>	5/3/05
Dept Signature:	<i>P. Jarrell</i>	City Manager	<i>[Signature]</i>	5/3/05
Agenda Coordinator (include phone #): L. Woodall - 7156				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER DIRECTION				
CAPTION				
Discussion and Direction on Approaches to Review and Amend the Zoning Ordinance to Appropriately Regulate Uses, including Manufacturing, in the Research Technology and Other Zoning Districts.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
<p>At its April 24th meeting, the City Council discussed approaches to allowing more flexibility with regard to manufacturing uses in the Research Technology zoning district. Presently, businesses classified as General Manufacturing require a SUP, and the additional time needed to go through the zoning process is seen as a deterrent by many prospective tenants. Several approaches, including establishing a task force or proceeding directly to zoning ordinance amendments, were discussed. The attached memo outlines definition amendments and a schedule that would allow Council to make changes quickly and would allow PEDB to respond positively to more of the relocation leads received from the State.</p>				
List of Supporting Documents: Memo		Other Departments, Boards, Commissions or Agencies		

May 2, 2005

MEMO

TO: Thomas H. Muehlenbeck, City Manager

FROM:  Phyllis M. Jarrell, Director of Planning

SUBJECT: Approach and Timing for Amendments to Regulations for Manufacturing Uses

I wanted to summarize the discussion that we had with Councilman Stahel and Sally Bane concerning the RT district regulations, and to offer a schedule for ordinance amendments if City Council wishes to pursue this approach. We reviewed the various definitions in the Zoning Ordinance for "Limited Assembly and Manufacturing" and "General Manufacturing" and the districts that now allow these uses by right or by SUP. Several districts, including the Retail zoning district, allow Limited Assembly and Manufacturing by right or by SUP. General Manufacturing uses are regulated more stringently, and a SUP is required for all general manufacturing uses in the city, regardless of zoning district.

As you know, presently the RT district allows Limited Assembly and Manufacturing uses by right; a SUP is required for General Manufacturing uses. Since the definition for General Manufacturing includes basic industrial processing operations (foundries, meat packing, chemical and petroleum processing, etc.) that might not be appropriate in the RT district or in other zoning districts, we discussed the possibility of creating a third definition specifically for these "heavier" industries. This approach could permit the city to eliminate the SUP requirement for General Manufacturing in the RT district and still keep the necessary control over the more intense industrial operations. Allowing the redefined General Manufacturing by right in all districts where a SUP is now required will also permit PEDB to respond positively to more of the relocation leads provided by the State.

Mr. Jessen indicated during his presentation to the City Council on April 24th that property owners and businesses in the RT district want to see the more stringent landscaping and screening requirements maintained to protect their investments. If the Council chooses to amend the ordinance to allow General Manufacturing by right, maintaining the prohibition on outside storage, the limits

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on the number of dock doors, screening requirements for loading and dock areas, and additional landscaping requirements should address this concern.

If City Council finds this approach acceptable, they can call a public hearing at the May 9th meeting. This would get the proposed amendments before the Planning & Zoning Commission on June 20th, then on to the City Council agenda on July 25th. If Council prefers to hear the case before its summer break, we can "double notify" the case for the June 27th meeting.

XC: Frank F. Turner, Executive Director
Sally Bane, Executive Director, PEDB

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CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/9/05		Reviewed by Legal <i>pl</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Department:	Legal		Initials	Date
Department Head	Diane G. Wetherbee		Executive Director	
Dept Signature:	<i>Diane Wetherbee</i>		City Manager	<i>[Signature]</i> <i>[Signature]</i>
Agenda Coordinator (include phone #): Lynne Jones - ext. 7109				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Council discussion of Handbill Solicitation.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
Council will discuss Handbill Solicitation.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Memo to Council Solicitation Complaint City Ordinance				

MEMORANDUM

DATE: April 15, 2005
TO: Honorable Mayor and Members of Council
FROM: Diane C. Wetherbee, City Attorney *DW*
SUBJECT: Handbill Solicitation

Council requested a briefing on our handbill solicitation ordinance, and in order to assist you in the discussion, I offer the following information:

A violation of the handbill ordinance is a Class C misdemeanor, punishable by a fine up to \$500. As a criminal offense, there are certain procedural steps that must occur in order to prosecute a violator. As is the case in any criminal matter that is not witnessed by a law or code enforcement officer, the owner/victim must file a complaint to activate the process. For solicitation violations, a copy of the materials left on the premises that are properly posted must also be provided. We are aware that many citizens do not want to come to the Justice Center to begin the preliminary process so to assist them, the complaint is mailed, emailed, faxed or can be downloaded from the City's website, and the completed form and accompanying materials can be returned by mail.

The prosecutor reviews the materials to insure that the elements of the offense are met and, if all is in order, the complaint is accepted for prosecution. A key element of prosecuting any case is being able to identify the defendant and secure their presence before the court. Many of the solicitation violations for home services such as cleaning or landscaping only include a name and cell phone number on the handbill, which limits our ability to locate the defendant and has been the primary reason for not accepting a complaint. If the defendant can be contacted and an address confirmed, the prosecution moves forward by notifying the defendant of the complaint and action needed to resolve the matter.

Mr. Patten's memo describes in greater detail how Plano addresses handbill solicitation, and his survey indicates that Plano is more aggressive than our surrounding cities on these matters. We are aware that citizens generally do not want to be involved in the actual prosecution process; however, in the event a trial is required, the citizen must be willing to testify in order to meet our burden of proof in the case. This type of trial is a rarity. Most of the cases that can be pursued are disposed without the need for a trial because the defendant pays the fine.

If you have any questions before this meeting please let me know.

c: Thomas H. Muehlenbeck, City Manager
Rodney Patten, Assistant City Attorney

Attachments: Patten Memo
City ordinance

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MEMORANDUM

TO: Diane Wetherbee, City Attorney
FROM: Rodney D. Patten, Assistant City Attorney I
DATE: April 11, 2005
RE: Solicitation Complaints

This report and the attached documentation is a brief explanation of the City of Plano's Prosecution Office procedures, treatment and enforcement of solicitation violations. When enforcing any Class C Misdemeanor violation, the role of the prosecutor's office is the same in all cases and only changes according to the facts of the cases that are presented and the elements that must be proven in order to meet the beyond a reasonable doubt burden. The burden is the same in all criminal offenses including violations of the City's Code of Ordinances.

The Prosecution Office becomes involved with solicitation violations when either a ticket is issued by a police officer or a complaint is filed by a Plano citizen. If a citizen complaint is filed with the necessary documentation indicating that a violation has occurred, the prosecution office will then attempt to locate and identify the responsible party in violation before filing the complaint with the Municipal Court. Once a violator is identified, located, and notified of the violation, the defendant will be given the opportunity to either pay the assigned fine amount or have his case set for court. If a defendant should decide to set his case for court, the court will assign the case to a pre-trial court date. A pre-trial court date allows the defendant to speak with the judge and prosecutor, if needed, to determine if their case can be resolved without going to trial. If they continue through the process, they decide whether to request a jury trial or a bench trial.

Within the last year, the Prosecutor's Office has received a total of seventy-eight citizen complaints for solicitation violations, of which forty-two violations were paid without the need of a pre-trial and two were paid after the defendant set his case for trial and was found guilty by the court. The remaining complaints were dismissed or administratively closed by the Prosecutor's Office before a pre-trial hearing for failure to either locate or identify the responsible party or due to the lack of support from the complaining citizen in their willingness to testify or deliver all necessary documents for trial. For the year, a total of \$9,416.00 was collected as a direct result of the citizen complaints that were filed.

Moreover, in a recent study of local surrounding cities including Irving, Mesquite, Allen, Richardson, Arlington, and Garland, all cities with the exception of Arlington indicated that they had a handbill solicitation ordinance forbidding solicitation on residential property where a proper sign was posted indicating "No Solicitation". No city contacted accepted citizen complaints as a means to enforce their solicitation ordinance but rather depended solely on their police department for enforcement. Further, if the police are unable to locate the suspect in the area, no further investigation is done regarding the matter to determine the responsible individual or company. As a direct result of their enforcement policy these cities are not as successful as Plano in their efforts to enforce their solicitation ordinance.

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CITIZEN SOLICITATION COMPLAINTS

MARCH 2004 - FEBRUARY 2005

COMPLAINANT	OFF. DATE	CONTACT NAME	COMPANY NAME	STATUS	COMMENTS	TOTAL
MARCH						
Mickie Boyette	02/09/04	Susan Chang	Lite Wok	Dismissed		
G. Gerald Haygood	02/26/04	Jerry W. Strong		Admin. Closed		
G. Gerald Haygood	02/26/04	Stephen Witherington		Dismissed		
G. Gerald Haygood	02/26/04	Tonya Crooks		Admin. Closed		
Kenneth Dickerson	03/10/04	Brent L. Crumpton		Pd. \$247.00		\$247.00
Kenneth Dickerson	03/16/04	Andrew S. Day	Aquaman Pool Services	Dismissed	refiled under emp. Name	
Kenneth Dickerson	03/16/04	Robert Stafford	Ace Flyer Distribution	Dismissed	refiled under emp. Name	
Kenneth Dickerson	03/16/04	T. J. Justice		Dismissed	refiled under emp. Name	
				TOTAL		\$247.00
APRIL						
Kenneth Dickerson	04/12/04	Dan Gerardis	Designer Roofing	Pd. \$247.00	Received Deferred	\$247.00
G. Gerald Haygood	02/26/04	Mike Haxton	M&H Fence Co.	Pd. \$247.00		\$247.00
Kenneth Dickerson	03/16/04	Michael Troy Baker		Admin. Close	No Response	
Ted P. Dreher	03/30/04	Terry Boevers	Dallas Times Herald	Dismissed	Criminal Trial	
Ted P. Dreher	12/06/03	Terry Boevers	Dallas Times Herald	Dismissed	Criminal Trial	
Ted P. Dreher	03/29/04	Mauricio Soto		Pd. \$247.00		\$247.00
Ted P. Dreher	03/05/04	Courtney Edmonson	Pizza, Inc.	Pd. \$247.00	Received Deferred	\$247.00
Ted P. Dreher	02/23/04	Susan Chang	Lite Wok	Pd. \$272.00	PT - Guilty	\$272.00
Kenneth Dickerson	03/16/04	Michael Troy Baker		Admin. Close	No Response	
Kenneth Dickerson	03/16/04	Michael Troy Baker		Admin. Close	No Response	
Richard P. Keeney	01/01/04	Tracy Chu	Chef Chu	Admin. Close		
Richard P. Keeney	03/16/04	Jason Scott Weisz	Weisz Selection, Inc.	Pd. \$247.00		\$247.00
Richard P. Keeney	03/21/04	Kevin Fargason		Pd. \$247.00	Pled	\$247.00
Richard P. Keeney	03/18/04	Kevin W. Keane	Keane Landscaping	Pd. \$247.00		\$247.00
Richard P. Keeney	03/18/04	Brad Hatmaker	The Mortgage Shop	Pd. \$247.00	Pre-Trial	\$247.00
Richard P. Keeney	03/16/04	Beatriz C. Guerrero		Pd. \$272.00	Payment Plan	\$272.00
Teresa Welsh	03/09/04	Steven R. Dunn	Seaman's Lawn	Dismissed		
Teresa Welsh	03/10/04	MC Autocraft		Admin. Close		
Dawn Wesson	02/13/04	Ziomara Young	Mansions at Ridgview	Dismissed		
Dawn Wesson	03/07/04	Ziomara Young	Mansions at Ridgview	Dismissed		
Larene Cannafax	03/29/04	Dwight Trotter	Colonial Roofing	Pd. \$247.00	Pre-Trial	\$247.00
				TOTAL		\$2,767.00
MAY						
Joseph Schwalb	04/25/04	Joe Neel	Remax	Pd. \$247.00		\$247.00
Kenneth R. Dickerson	05/17/04	Daniel Stewart	Stewart Landscape	Admin. Close	No Response	
Kenneth R. Dickerson	05/03/04	William Glover		Pd. \$177.00	Jury - Guilty	\$177.00
				TOTAL		\$424.00

COMPLAINANT	OFF. DATE	CONTACT NAME	COMPANY NAME	STATUS	COMMENTS	TOTAL
JUNE						
Ted Dreher	05/24/04	Todd Yasbin		Admin. Close	Mail Returned	\$247.00
	05/22/04	Aiqing Lu		Pd. \$247.00		\$247.00
				TOTAL		
JULY						
Charles Schwalb		Yardborough				
Ted Dreher	06/08/04	Hugo Sanclemente	Mi Bandera Meat Market	Pd. \$247.00		\$247.00
William Litt	06/22/04		Andrews Construction	denied - sign not proper dimensions		
				TOTAL		\$247.00
AUGUST						
Kenneth Dickerson	06/10/04	Wayne Sweeney	Sunlight Window Cleaning	Pd. \$322.00	Pre-Trial	\$322.00
Kenneth Dickerson	08/18/04	Mark Brantley	Park Cities Funding, Inc.	dismissed	Pre-Trial	
Robert Forson	07/26/04	Jose Garcia	Eben-ezer Painting	Admin. Closed		
Robert Forson	07/16/04	Oliver Garcia	Mr. Gatti's	Pd. \$147.00	Pre-Trial	\$147.00
Robert Forson	07/14/04	Scott Thompson	Thompson Landscape	Pd. \$247.00		\$247.00
Robert Forson	07/23/04	Alan Hildick	Coldwell Banker	dismissed	Criminal Trial	
Richard P. Keeney	01/01/04	Tracy Chu	Chef Chu	Admin. Closed		
Teresa Welsh	03/09/04	John Seaman	Seaman's Lawn	Pd. \$247.00	Deferred	\$247.00
Robert Forson	07/15/04	Juan Gallera	Lucky Lawn	Pd. \$247.00		\$247.00
				TOTAL		\$1,210.00
SEPTEMBER						
Robert Forson	08/08/04	Rachel Dozier		Pd. \$247.00		\$247.00
Robert Forson	08/27/04	Donna Stafford	Mr. Jim's Pizza	Pd. \$247.00		\$247.00
Robert Forson	08/17/04	Darlene Hughes		Pd. \$247.00		\$247.00
Robert Forson	08/21/04	Richard Findlay		Pd. \$247.00		\$247.00
Robert Forson	08/03/04	Urbano Lopez		Pd. \$247.00		\$247.00
Robert Forson	08/18/04	Susan Currie		Pd. \$247.00		\$247.00
Robert Forson	08/14/04	Derek Leupen		Pd. \$247.00		\$247.00
Robert Forson	09/08/04	Ross Garza		Pd. \$247.00		\$247.00
Robert Forson	09/08/04	Lucio Maldonado	Dynamo Home Improv.	Pd. \$247.00		\$247.00
Robert Forson	08/07/04	Thomas Carter	M.L. Foundation	Pd. \$247.00		\$247.00
John Prell	08/07/04	Josh Lee		Admin. Close		
Ted Dreher	09/18/04	Feng Ming Xiao	Jade Palace	Admin. Close		\$247.00
Ted Dreher	08/25/04	Mike Norris	Piano Star Courier	Pd. \$247.00		\$247.00
Ted Dreher	08/23/04	Complete Windows		Dismissed		
Joseph Schwalb	09/11/04			due 04/04/05		
				TOTAL		\$ 2,470.00

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COMPLAINANT	OFF. DATE	CONTACT NAME	COMPANY NAME	STATUS	COMMENTS	TOTAL
OCTOBER						
Joseph Luna	10/01/04	Robert P. Koons	Upper Crust Pizza	Pd. \$247.00		\$247.00
Joseph Schwalb	09/21/04	Robert Mann	One of a Kind Faux Painting	Admin. Close		
Ted Dreher	10/11/04	Susan Chang	Lite Wok	Pd. \$247.00	Health Trial - Guilty	\$247.00
Ted Dreher	09/28/04	Scott Horwitz	J&S Enterprises	Pd. \$322.00	Payment Plan	\$322.00
				TOTAL		\$816.00
NOVEMBER						
Joseph Schwalb	11/16/04	Baron Hernandez		Pd. \$247.00		\$247.00
				TOTAL		\$247.00
DECEMBER						
NONE FILED						
JANUARY						
Robert Forson	01/11/05	J.H. Scarbrough, Jr.	Clean Sweep	Criminal Trial 4/26/05		
Robert Forson	12/29/04	Robert Koons	Upper Crust Pizza Co.	Due 4/4/05		
Robert Forson	12/15/04	Feng Ming Xiao	Jade Palace	Pd. \$247.00		\$247.00
Robert Forson	12/09/04	Lee C. Brown	H & H Distributing	Pd. \$247.00		\$247.00
Robert Forson	12/04/04	Derek Leupen	Direct to Your Door, Inc.	Pd. \$247.00		\$247.00
Robert Forson	12/09/04			unable to process	No Franchise Address on handbill	
				TOTAL		\$741.00
FEBRUARY						
Robert Forson	12/29/04	Patty Young	Plano Health Club	Pd. \$247.00		\$247.00
Ken Dickerson	01/31/05	Les Lurey Melinda	Venture Custom Pools	Pd. \$247.00		\$247.00
Robert Forson	01/25/05	McCormick	Avon	Pd. \$247.00		\$247.00
Robert Forson	01/24/05	Jan Gibbons	Energy Experts	Adm. Close	Bad Address and Name	
Ken Dickerson	02/12/05	Dave Hunnicutt	Window Cleaning	Due 4/10/05		
Ken Dickerson	02/14/05	Jose Munoz		Cannot Proceed	Cannot locate Defendant	
Ken Dickerson	01/31/05	Crystal Clear Pool		Cannot Proceed	Cannot locate Defendant	
Alan Smith	01/05/05	Dallas Complete Windows		Denied Complaint	No date on Handbills	
				TOTAL		\$741.00
				GRAND TOTAL		\$9,416.00

ARTICLE IV. PEDDLERS AND SOLICITORS*

***Editor's note:** Ord. No. 2002-7-13, § I, adopted July 22, 2002, amended Art. IV in its entirety to read as herein set out. Formerly, Art. IV, §§ 11-141-11-158, pertained to similar subject matter as adopted by Ord. No. 87-10-30, § II, adopted Oct. 26, 1987, as amended. See the Code Comparative Table.

State law references: Home solicitation transactions, Vernon's Ann. Civ. St., art. 5069-13.01 et seq.; municipal powers as to hawkers and peddlers, Vernon's Ann. Civ. St., arts. 1014(37), 1031; agricultural regulations, V.T.C.A. Agriculture Code, Chs. 13, 102 et seq.

DIVISION 1. GENERALLY**Sec. 11-141. Definitions.**

The following words and phrases, when used in this article, shall have the meanings ascribed to them by this section:

Business day means any calendar day except Saturday, Sunday or any state or national holiday.

Charitable purpose shall mean philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. "Charitable purpose" shall not be construed to include any direct benefit to the individual making the solicitation, to include the benefit of any political group or political organization which is subject to financial disclosure under state or federal law.

Commercial solicitation or soliciting, means the act of asking, bartering, or communicating in any other such manner, whether orally, by written and or printed material including but not limited to handbills or leaflets, hand signing or by any other method, direct or implied, by an individual or group of individuals for a for-profit purpose which includes promoting, advertising, receiving or obtaining money, alms, gifts or items of value, real or intrinsic for said individual or group of individuals, or for-profit organization, joint venture, joint stock company, partnership, club, company, corporation, business trust, establishment, However the term does not include solicitation for religious, political, charitable, or other non-commercial purposes.

Consumer means an individual who seeks or acquires real or personal property, services, money, or credit for personal, family or household purposes.

Handbill means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature.

Handbill distributor means and includes any person engaging or engaged in the business for hire or gain of distributing handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the

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distribution of such handbills.

Handbill sponsor means and includes any person, firm or corporation who utilizes handbills as a medium of advertising or spreading a message.

Individual shall mean only a natural person.

Itinerant vendor shall mean any person who sets up and operates a temporary business on privately owned property, whether improved or unimproved, in the city, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A temporary business is one that continues for forty-five (45) days or less; and, exists whether solicitation is from a stand, vehicle, or freestanding.

Any business that exists more than forty-five (45) days shall be deemed to be a permanent occupancy and is required to obtain a certificate of occupancy from the building inspection department.

Job placement activities means any request, offer, enticement, or action which announces the availability for or of employment or seeks to secure employment. As defined herein, "job placement activities" shall be deemed complete when made whether or not an actual employment relationship is created.

Political purpose means any form of communication relating to a political issue, a particular candidate to a position or non-partisan office, or to a political party.

Public right-of-way for the purposes of this Article, right-of-way shall mean the area that is within ten (10) feet of the curb line. In absence of a curb line, the area within ten (10) feet of the shoulder of a road or highway. Right-of-way also includes the travel portion of the roadway and all traffic medians.

Residential street means a thoroughfare with a right-of-way of fifty (50) feet and pavement width of twenty-six (26) feet where the paved section allows for two (2) travel lanes with one (1) parking lane.

Solicitation: Solicitation or soliciting or solicited or any other action form of the word solicit means the act of asking, begging, pleading or in any other such manner, communicate, whether orally, by written, and/or printed material, hand signing or by any other method, direct or implied, by an individual or group of individuals for the purpose of receiving or obtaining money, alms, gifts or items of value, real or intrinsic for said individual, for said group of individuals or a for profit organization or a non-profit organization; individual; person or more than one person; organization; couple; family; relationship; joint venture; joint stock company; partnership; club, company; corporation; business trust; establishment; religious institution or religion; association, or the like or chapter or affiliate thereof, for the purposes of giving, use, sustenance, purchase, barter or any other such form.

(Ord. No. 2002-7-13, § 1, 7-22-02; Ord. No. 2004-9-13, § 1, 9-13-04)

Sec. 11-142. Penalties.

Any person violating any provision of this article or failing to observe any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in section 1-4 of this Code of Ordinances by a fine not exceeding five hundred dollars (\$500.00). Every day the violation continues shall be deemed as a separate offense.

(Ord. No. 2002-7-13, § 1, 7-22-02)

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DIVISION 2. SOLICITATION

Sec. 11-143. Solicitation in public right-of-way.

- (a) A person may solicit for a charitable or political purpose in or upon the public right-of-way, except those areas prohibited in this article.
- (b) A person may conduct commercial solicitation in or upon the public right-of-way, except those areas prohibited in this article, if the solicitor has obtained a permit or who is a member of an organization that has obtained a permit.
- (c) Solicitation for any purpose in the public right-of-way shall be conducted only during the hours of daylight, specifically one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset.
- (d) It shall be unlawful for a person younger than eighteen (18) years of age to solicit in the public right-of-way.
- (e) It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway. However, this provision does not apply to public rights-of-way on residential streets.
- (f) It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway of residential streets so that their presence impedes the flow of traffic.
- (g) It shall be unlawful for a person to solicit in the public right-of-way that is within one thousand (1,000) feet of any public or private elementary or secondary school between the hours of 7:30 a.m. and 4:30 p.m. on days when such school is in session. The measurement of the distance shall be made from the nearest property line of the public or private elementary or secondary school.

(Ord. No. 2002-7-13, § 1, 7-22-02)

Sec. 11-144. Solicitation in selected public rights-of-way prohibited.

- (a) It shall be unlawful for any person to solicit, at any time in the public right of ways, with or without a permit, within one thousand (1,000) feet of the following intersections:
- (1) *Midway Road at its intersection with:*
 - a. Park Boulevard
 - b. Parker Road
 - c. Windhaven Parkway
 - (2) *Dallas Parkway at its intersection with:*
 - a. Plano Parkway
 - b. Park Boulevard
 - c. Chapel Hill Boulevard
 - d. Parker Road
 - e. Windhaven Parkway
 - f. Spring Creek Parkway

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- g. Tennyson Parkway
- h. Legacy Drive
- i. Headquarters Drive
- j. State Highway 121

(3) *Preston Road at its intersection with:*

- a. Plano Parkway
- b. Park Boulevard
- c. Parker Road
- d. Spring Creek Parkway
- e. Tennyson Parkway
- f. Legacy Drive
- g. Hedgcoxe Road
- h. Headquarters Drive
- i. McDermott Road
- j. State Highway 121

(4) *Coit Road at its intersection with:*

- a. Plano Parkway
- b. 15th Street
- c. Parker Road
- d. Spring Creek Parkway
- e. Legacy Drive
- f. Hedgcoxe Road
- g. McDermott Road
- h. State Highway 121

(5) *Independence Parkway at its intersection with:*

- a. North Service Road of State Highway 190
- b. Plano Parkway
- c. 15th Street
- d. Park Boulevard
- e. Parker Road
- f. Spring Creek Parkway
- g. Legacy Drive
- h. Hedgcoxe Road
- i. McDermott Road
- j. State Highway 121

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- (6) *Custer Road at its intersection with:*
 - a. North Service Road of State Highway 190
 - b. Plano Parkway
 - c. Park Boulevard
 - d. Parker Road
 - e. Spring Creek Parkway
 - f. Legacy Drive
 - g. Hedgcoxe Road
 - h. McDermott Road
 - i. State Highway 121
 - j. 15th Street
- (7) *Alma Drive at its intersection with:*
 - a. North Service Road of State Highway 190
 - b. Plano Parkway
 - c. 15th Street
 - d. Park Boulevard
 - e. Spring Creek Parkway
 - f. Legacy Drive
 - g. Hedgcoxe Road
 - h. Parker Road.
- (8) *U.S. Highway 75 at its intersection with:*
 - a. North Service Road of State Highway 190
 - b. Plano Parkway
 - c. 15th Street
 - d. Park Boulevard
 - e. Parker Road
 - f. Spring Creek Parkway
 - g. Legacy Drive
- (9) *Avenue K at its intersection with:*
 - a. North Service Road of State Highway 190
 - b. Parker Road
 - c. Spring Creek Parkway
 - d. Legacy Drive
 - e. Chaparral Road
 - f. Plano Parkway

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- g. Park Boulevard
- (10) *Jupiter Road at its intersection with:*
 - a. North Service Road of State Highway 190
 - b. Plano Parkway
 - c. Park Boulevard
 - d. Parker Road
 - e. Spring Creek Parkway
 - f. Los Rios Boulevard
 - g. Chaparral Road
 - h. 14th Street
- (11) *Los Rios Boulevard at its intersection with:*
 - a. Plano Parkway
 - b. FM 544 (14th Street)
 - c. Park Boulevard
 - d. Parker Road

(b) Reserved.

(Ord. No. 2002-7-13, § I, 7-22-02; Ord. No. 2004-9-13, § II, 9-13-04; Ord. No. 2004-11-24, § I, 11-22-04)

Sec. 11-145. Solicitation and handbill distribution on private property.

- (a) It shall be unlawful for any person to conduct commercial solicitation upon residential property within the city, without first obtaining a written permit as prescribed by this article.
- (b) All solicitation on residential property, whether for a commercial or non-commercial purpose shall occur only during the time that is one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset. This provision does not apply where the solicitor is on the property by express, prior invitation of the owner of the property or a person residing on the premises.
- (c) It shall be unlawful for any person, handbill distributors, sponsor, to distribute or cause to be distributed, deposited, placed, thrown, scattered, or cast any handbill upon any residential property except by handing or transmitting such handbill directly to the owner, occupant, or any other person then present in or upon such private premises or by placing or depositing the same in a manner to secure to prevent such handbill from being blown or drifting about such premises, except that mailboxes may not be used when prohibited by federal postal laws or regulations.
- (d) It shall be unlawful for any person to distribute or cause to be distributed, deposited, placed, thrown, scattered or cast any handbill upon any residential property if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than three (3) inches by four (4) inches in size bearing the words "no trespassing," "no peddlers," "no advertisements," "no solicitation," "no handbills," or any similar notice indicating in any manner that the occupants of such premises do not

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desire to have any such handbills left upon their premises. The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.

(e) It shall be unlawful for any person to go upon any residential premises for the purpose of solicitation and ring the doorbell, knock upon the door or create any sound for the purpose of attracting the attention of the occupants of the residence if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than three (3) inches by four (4) inches in size bearing the words "no solicitation", "no peddlers", or "no trespassing". The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.

(Ord. No. 2002-7-13, § I, 7-22-02; Ord. No. 2003-6-7, § I, 6-9-03)

Sec. 11-146. Display of identification for commercial solicitation.

The person(s) in charge of conducting commercial solicitation shall provide all commercial solicitors involved in the solicitation with identification that is to be clearly displayed and recognizable, by any person, at any time that identifies who the solicitor is and for whom the solicitor is soliciting. It shall be unlawful for any commercial solicitor to fail or refuse to show or display such identification upon the request of any person.

(Ord. No. 2002-7-13, § I, 7-22-02)

Sec. 11-147. Display of permit to conduct commercial solicitation.

The person(s) in charge of conducting the commercial solicitation shall provide each commercial solicitor with a copy of the permit issued by the city as prescribed by this article. It shall be unlawful for any solicitor to engage in commercial solicitation without having a copy of the permit in their possession. It shall be unlawful for any commercial solicitor to fail or refuse to show or display such copy upon the request of any person.

(Ord. No. 2002-7-13, § I, 7-22-02)

Sec. 11-148. Solicitation for purpose not set out in application.

It shall be unlawful for any commercial solicitor to solicit for a purpose other than that set out in the application upon which the permit was issued.

(Ord. No. 2002-7-13, § I, 7-22-02)

DIVISION 3. PERMIT FOR COMMERCIAL SOLICITATION IN THE PUBLIC RIGHT-OF-WAY AND ON RESIDENTIAL PROPERTY

Sec. 11-149. Exceptions from permit requirement.

The following are excepted from filing an application and receiving a written permit.

- (1) Solicitation in the public right-of-way on residential streets.

(Ord. No. 2002-7-13, § I, 7-22-02)

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Sec. 11-150. Required fee.

It shall be unlawful for any person to conduct commercial solicitation within the City of Plano without first obtaining a written permit from the city's police department. Every application shall be accompanied by a registration fee of twenty dollars (\$20.00), except as provided in section 11-152 to compensate the city for the cost of administering this article, and such fee will not be refunded if a permit is not issued.

(Ord. No. 2002-7-13, § 1, 7-22-02)

Sec. 11-151. Application for permit.

(a) A person or organization seeking a permit for the purpose of conducting commercial solicitation shall file an application with the city's police department upon the application form provided by the city. Such application shall contain at a minimum the following information:

- (1) The full and legally recognized names and any associated aliases, logos, nicknames, and abbreviated names of the entity or person applying for a permit to solicit;
- (2) If the purpose of the solicitation is for the distribution of handbills, the name of the handbill sponsor and company organizing the distribution of same.
- (3) Whether the person applying is a natural person, partnership, corporation or association, and:
 - a. The business or residence address and telephone number of the applicant;
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner;
 - c. If a corporation, the person applying shall state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of such corporation, and, if a foreign corporation, the place of incorporation;
 - d. If an association, the application shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association unless they exceed ten (10) in number, in which case the application shall so state and the person registering may alternatively list the name and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is a part of a multistate organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.
- (4) The names, mailing address and telephone number of all individuals who will be in direct charge or control of the solicitation;
- (5) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion;

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- (6) A description of the methods and means by which the solicitation is to be accomplished;
- (7) The nature of merchandise to be sold or offered for sale or the nature of the services to be furnished;
- (8) Whether such applicant, upon any such order so obtained, will demand, accept or receive payment or deposit of money in advance of final delivery;
- (9) A statement to the effect that if a permit is granted, such permit will not be used as or represented to be an endorsement by the city or any of its officers or employees;
- (10) Any other information which the city deems necessary for the administration of this article.

(b) The application must be signed by the applicant, if the person applying is an individual; if the person applying is a partnership, by the partner charged with disbursing funds solicited; if the person applying is a corporation or an association, by its officer charged with disbursing the funds solicited. The individual signing the application shall sign the application and swear before an officer authorized to administer oaths that he has carefully read the application and that all the information contained therein is true and correct.

(c) Information provided by applicant will be subject to verification by the police department.

(d) Such application shall also show satisfactory written proof of the individual's authority to represent the company.

(e) Application must be accompanied by a copy of a valid state sales tax certificate, if applicable.

(f) The application shall be accompanied by a nonrefundable fee of twenty dollars (\$20.00), and no permit provided for by this division shall be issued until such fee has been paid by such applicant.

(Ord. No. 2002-7-13, § I, 7-22-02)

Sec. 11-152. Exemption from application fee.

(a) Application fee shall not be required of ordinary commercial travelers who sell or exhibit for sale goods, wares or merchandise to persons selling and dealing in the same within the city.

(b) Individuals who file a statement with the police department indicating their indigent status.

(Ord. No. 2002-7-13, § I, 7-22-02)

Sec. 11-153. Permit issuance for commercial solicitation, duration and form.

(a) A permit applied for under this division shall be issued by the city police department within ten (10) days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on its application.

(b) A permit requested under this division shall be issued for the length of time

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requested, not to exceed 30 days.

(c) The city shall prescribe the form of the permit. Each such permit shall be printed in black except that the following shall be printed prominently thereon in red: "The issuance of this permit is not an endorsement by the City of Plano or any of its officers or employees." Each permit shall bear a permit number which is the same as the file containing the application filed by the same applicant.

(Ord. No. 2002-7-13, § 1, 7-22-02)

Sec. 11-154. Denial or revocation of permit to solicit for commercial purpose.

A permit to solicit for a commercial purpose may be revoked and the solicitor may be prohibited from reapplying for the period covered by the original application, or an application to solicit may be denied, when it has been determined that:

- (1) An applicant has knowingly given false or misleading information on an application; or
- (2) A solicitor, while soliciting, is charged and subsequently convicted of theft or fraud or a violation of any city, state, or federal law, in connection with said solicitation; or
- (3) A solicitor or the entity has made, or caused to be made, false statements or misrepresentations to any member of the public with regard to the solicitation; or
- (4) A solicitor or the entity violates any part of any provision of this article; or
- (5) A solicitor creates a traffic or safety hazard to themselves, the users of the roadway, property owner, or occupant thereof.

(Ord. No. 2002-7-13, § 1, 7-22-02)

Sec. 11-155. Appeal from denial or revocation of permit to conduct commercial solicitation.

Should an applicant be denied a permit or have a permit revoked, the applicant may appeal that action to the city manager or his designee by submitting a letter to the city secretary within ten (10) days of the action complained of. A hearing on the denial will then be scheduled within seven (7) days of the receipt of the appeal, to be held within fifteen (15) days. The city manager, or his designee, shall render a decision on the appeal within three (3) days of the date of the hearing. The decision of the city manager, or his designee, shall be final.

(Ord. No. 2002-7-13, § 1, 7-22-02)

DIVISION 4. ITINERANT VENDORS

Sec. 11-156. Itinerant vendors on private property.

(a) *Permit required.* No itinerant vendor may intermittently occupy any privately owned property for the purpose of operating a temporary business within the city without having previously obtained a temporary sales permit from the building inspection department. The applicant must have such permit within his or her personal possession during the

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time that the temporary business is in operation and must display the permit in such a manner that it is clearly visible from the abutting street.

(b) *Permit fee.* Prior to the issuance of a permit, the applicant must pay the City of Plano a permit fee in the amount of twenty dollars (\$20.00). The city will not require payment of this permit fee by locally-based charitable organizations or organizations engaged in activities such as bake sales or car washes.

(c) *Permit duration.* A permit requested under this article will issue for a minimum of five (5) days, but not to exceed forty-five (45) days. Each eligible property may only allow use of the property for a temporary business for a maximum of forty-five (45) days per calendar year.

(d) *Requirements for permit issuance.* The building inspection department shall only issue a permit if the applicant has complied with the following requirements:

(1) The itinerant vendor must conduct his business on the property in a manner that does not violate any code of the city, including all zoning, building, and health codes. The city will exempt an itinerant vendor from zoning provisions where the proposed location of the temporary business is an improved property that contains an active institutional use, such as a church or school; and

(2) The itinerant vendor must possess a valid state sales tax certificate or proof of a tax exemption; and

(3) The itinerant vendor must provide the city with a copy of either a lease or written permission from the owner of the private property showing that the itinerant vendor may use the property; and

(4) The itinerant vendor must submit a dimensioned or scaled site plan indicating the location of the display area, curb cuts, and parking area. The city requires all parking on an all-weather surfaced area; and

(5) The itinerant vendor must provide one unisex portable sanitary facility. In lieu of the portable sanitary facility, the vendor may provide a permission letter from the owner or manager of a property located within a two-hundred-foot radius of the temporary business granting permission to use their sanitary facilities; however, the property where the itinerant vendor has permission to use the sanitary facilities cannot be located across a thoroughfare of four lanes or larger; and

(6) If the sale involves food products, the itinerant vendor must obtain all the necessary health permits.

(e) An itinerant vendor may not use a tent or temporary building, except a portable sanitary facility, in conjunction with a temporary sale.

(Ord. No. 2002-7-13, § I, 7-22-02; Ord. No. 2002-11-3, §§ I, II, 11-4-02)

DIVISION 5. JOB PLACEMENT ACTIVITIES

Sec. 11-157. Prohibition of job placement activities in unauthorized locations.

(a) No person shall engage in or attempt to engage in job placement activities in an unauthorized location. This section shall not apply to job placement activities concerning employment or business for the owner or lawful tenants of the subject premises.

(b) This section shall only apply to unauthorized locations where the location has a

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notice posted in both English and Spanish in a conspicuous place at each entrance and exit to such location not less than eighteen (18) by twenty-four (24) inches in size with lettering not less than one (1) inch in height and not to exceed, in total area, six (6) square feet. The notice shall be in substantially the following form:

It is unlawful to engage in job placement activities on these premises.

(Ord. No. 2002-7-13, § I, 7-22-02)

Secs. 11-158-11-200. Reserved.

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